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106<sup>TH</sup> CONGRESS, 2<sup>ND</sup> Session

U. S. HOUSE OF REPRESENTATIVES

Committee on Standards of Official Conduct

IN THE MATTER OF REPRESENTATIVE E. G. "BUD" SHUSTER

SEPTEMBER 27, 2000

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Mr. HEFLEY from the Investigative Subcommittee submitted the following

## **REPORT**

To the Committee on Standards of Official Conduct.

### **III. EXECUTIVE SUMMARY**

The Investigative Subcommittee conducted a two and a half year investigation regarding Representative Shuster in which the scope of its investigation was expanded one time. The investigation encompassed the conduct alleged in a complaint filed with the Committee by the Congressional Accountability Project ("CAP"), as well as additional matters that came to the attention of the Investigative Subcommittee.

At the conclusion of the investigation, the Investigative Subcommittee found substantial reason to believe that Representative Shuster committed violations of House Rules within the Committee's jurisdiction. Representative Shuster admitted to the violation found by the Investigative Subcommittee and the Investigative Subcommittee unanimously adopted a Statement of Alleged Violation ("SAV") on July 26, 2000. *Exhibits 1 and 2*. The charges set forth in the SAV encompass conduct alleged in the complaint and additional matters regarding activities by the Bud Shuster for Congress Committee ("BSCC"). The Investigative Subcommittee also determined that it did not have substantial reason to believe several allegations listed in the complaint.

The SAV consists of one count in which Representative Shuster admits to a pattern of conduct in five specific areas that did not reflect creditably on the House of Representatives, in violation of former Rule 43, Clause 1. Two areas identified in the SAV also involve violations of House gift rules and rules regarding use of official resources. Several of the specific areas of conduct relate to Representative

Shuster's professional relationship with Ann M. Eppard, who resigned as his Chief of Staff in November, 1994.

The specific language of the SAV reads as follows:

Statement of Alleged Violation

1. At all times relevant to this Statement of Alleged Violation, Representative E.G. "Bud" Shuster ("Representative Shuster") was a Member of the United States House of Representatives representing the 9<sup>th</sup> District of Pennsylvania.

Count I: Representative Shuster Engaged In A Pattern Of Conduct That Did Not Reflect Creditably On The House Of Representatives In Violation Of Former Rule 43, Clause 1, of the House of Representatives.

Summary and Applicable Standards

2. The Investigative Subcommittee found that Representative Shuster's conduct as set forth in this Statement of Alleged Violation did not reflect creditably on the House of Representatives. The Investigative Subcommittee found that the conduct set forth in paragraph 4, below, did not reflect creditably on the House of Representatives and violated former House Rule 43, Clause 1.

3. Former House Rule 43, Clause 1 (current House Rule 24, Clause 1) provides that each Member of the House of Representatives shall conduct himself at all times in a manner which reflects creditably on the House of Representatives.

Conduct Constituting Alleged Violation

4. Representative Shuster's conduct did not reflect creditably on the House of Representatives between 1993 and 1998, inclusive, in the following manner:

(a) Representative Shuster engaged in a pattern and practice of knowingly allowing Ann M. Eppard to appear before or communicate with him in his official capacity, during the 12-month period following her resignation as his chief of staff, on occasions and in a manner that created the appearance that his official decisions might have been improperly affected;

(b) Representative Shuster violated House Gift Rules [former Rule 43(4) for 1995 and Rule 52 for 1996] by accepting expenses from the Outdoor Advertising Association of America ("OAAA") and Daniel, Mann, Johnson and Mendenhall ("DMJM") related to a trip with his family to Puerto Rico in December 1995 and January 1996;

(c) Representative Shuster violated former House Rule 45 by authorizing and/or accepting the scheduling and advisory services of Ann M. Eppard on matters that were official in nature for approximately 18 months after she resigned from his congressional office;

(d) While under the supervision and control of Representative Shuster as their employing Member, employees in Representative Shuster's congressional office worked for the Bud Shuster for Congress Committee ("BSCC") to the apparent detriment of the time they were required to spend in the congressional office and performed services for the BSCC in his congressional offices;

(e) The number and dollar amount of expenditures by the Bud Shuster for Congress Committee ("BSCC") for meals designated as "political meetings" and for transportation on chartered airplane flights, as reported in Federal Election Commission reports filed by the BSCC between 1993 and 1998, combined with record-keeping practices followed by the BSCC inadequate to verify the legitimate

campaign purposes of these expenditures, created the appearance that certain expenditures may not have been attributable to bona fide campaign or political purposes.

#### Alleged Violation

5. Based on the foregoing paragraph 4, the Investigative Subcommittee found that between 1993 and 1998, inclusive, Representative Shuster conducted himself in a manner that did not reflect creditably on the House of Representatives, in violation of former Rule 43, Clause 1 of the House of Representatives.

The CAP complaint raised numerous allegations regarding "a complex interconnecting web of legislative, political, financial, and personal ties" between Representative Shuster and Ms. Eppard. In addition, the "complex web" allegation in the CAP complaint charged that Representative Shuster "implicitly recommended Eppard to potential lobbying clients." The complaint also alleged that it appeared Ms. Eppard "may have violated the one-year post-employment prohibition against personal staff lobbying their former employer."

The Investigative Subcommittee determined that other than as set forth in the Statement of Alleged Violation and described in Section II, below, it did not find substantial reason to believe that Representative Shuster's conduct and relationship with Ms. Eppard as specifically described and listed in the CAP complaint under the "complex web" allegation violated any law, rule, regulation, or other standard of conduct applicable to Representative Shuster.

The CAP complaint also alleged that Representative Shuster violated House gift rule provisions regarding lodging with Ms. Eppard during 1995 and 1996. The CAP complaint also raised allegations concerning significant legislative benefits to Ms. Eppard's clients and the relationship between Representative Shuster and a businessman from his district. It also requested that the Committee inquire into whether Representative Shuster violated federal laws concerning illegal gratuities. The Investigative Subcommittee determined that other than as described in Section II, below, it did not find substantial reason to believe that Representative Shuster's conduct as alleged in these sections of the CAP complaint violated any law, rule, regulation, or other standard of conduct applicable to Representative Shuster.

#### **IV. SUMMARY OF FACTS PERTAINING TO REPRESENTATIVE SHUSTER'S PATTERN OF CONDUCT THAT DID NOT REFLECT CREDITABLY ON THE HOUSE OF REPRESENTATIVES IN VIOLATION OF FORMER HOUSE RULE 43, CLAUSE 1.**

##### **A. BACKGROUND.**

Representative E. G. "Bud" Shuster has served as a Member of Congress from the 9<sup>th</sup> District of Pennsylvania since January 1973. In January 1995 Representative Shuster became Chairman of the Committee on Transportation and Infrastructure.

Ann M. Eppard served as Representative Shuster's Chief of Staff from 1973 through November 1994. During this same period she also served as Assistant Treasurer for the Bud Shuster for Congress Committee. In November 1994 Ms. Eppard left her position with Representative Shuster's congressional office and opened a lobbying firm in Alexandria, Virginia. During 1995, Ms. Eppard represented many clients with interests before the Committee on Transportation and Infrastructure. *Exhibit 3.* In addition, Ann Eppard Associates, Ltd. ("AEA"), Ms. Eppard's lobbying firm, was paid by the Bud Shuster for Congress Committee as a consultant and Ms. Eppard continued to serve as Assistant Treasurer for the campaign committee. *Exhibit 4.*

The Investigative Subcommittee found that Representative Shuster engaged in a pattern of conduct between 1993 and 1998 that did not reflect creditably on the House of Representatives. The

Investigative Subcommittee found that Representative Shuster's conduct, as delineated in five sections of paragraph 4 of the Statement of Alleged Violation adopted by the Investigative Subcommittee on July 26, 2000, did not reflect creditably on the House of Representatives and violated Clause 1 of the Code of Official Conduct (former House Rule 43, current House Rule 24.)

Clause 1 of the Code of Official Conduct provides that:

A Member, officer, or employee of the House of Representatives shall conduct himself at all times in a manner which shall reflect creditably on the House of Representatives.

Clause 1 is the most comprehensive provision of the Code and was adopted, in part, so that the Committee, in applying the Code, would retain "the ability to deal with any given act or accumulation of acts which, in the judgment of the committee, are severe enough to reflect discredit on the Congress."<sup>1</sup>

The Investigative Subcommittee determined that the acts or accumulation of acts of Representative Shuster, as specified in the five areas enumerated below, were severe enough to reflect discredit on the House of Representatives and, therefore, were inconsistent with the mandate of Clause 1 of then Rule 43.

**B. ANN M. EPPARD'S COMMUNICATIONS WITH REPRESENTATIVE SHUSTER DURING THE 12-MONTH PERIOD FOLLOWING HER RESIGNATION FROM HIS CONGRESSIONAL OFFICE**

The Ethics Reform Act of 1989 enacted, for the first time, post-employment restrictions on legislative branch officials.<sup>2</sup>

These limitations went into effect in 1991. The law applies only to Members, officers and those employees who earn at least 75% of a Member's salary.<sup>3</sup>

The law imposes a one-year "cooling off" period on covered legislative officials. For one year after leaving office, covered individuals may not seek official action by communicating with or appearing before specified current officials with the intent to influence them. Specifically, with regard to covered former employees from the personal office of a Member, such covered employees may not seek official action, on behalf of other persons, from the former employing Member or from any of that Member's employees.<sup>4</sup>

While the length of the required "cooling off" period is set at one year only by statute, through its prohibitions the statute simply recognizes the potential for conflict of interest inherent in certain types of communications by recent former employees with their former colleagues. As the Office of Government Ethics has stated in construing the nearly identical provisions of the statute applicable to former senior employees of the executive branch:

*[T]he purpose of this one-year "cooling off" period is to allow for a period of adjustment to new roles for the former senior employee and the agency he served, and to diminish any appearance that Government decisions might be affected by the improper use by an individual of his former senior position.<sup>5</sup>*

The law focuses on *communications and appearances*. The Office of Government Ethics has stated that the term "appearance" as used in the statute "extends to a former employee's mere physical presence...when the circumstances make it clear that his attendance is intended to influence the

United States."<sup>6</sup> As the Committee has noted in the House Ethics Manual, published in 1992, that is, before the conduct at issue in this matter,

*[I]f a former official plays a background role, does not appear in person or convey his or her name on any communications, the law apparently does not prohibit that person from advising those who seek official action from the Congress. Such a background role does not pose the risk of improper influence since the current officials are not even aware of the former official's participation.<sup>7</sup>*

Clearly, however, activities by a former official through which a current official is made aware of the former official's involvement in a matter could raise concerns as posing the type of potential conflict of interest addressed by the statute.

For the one-year "cooling off" period following her resignation as his Chief of Staff, it was Ann Eppard rather than Representative Shuster who was covered by the express terms of 18 U.S.C. § 207 (e)(2). The Investigative Subcommittee has not here reached the issue of whether Ms. Eppard violated the terms of that statute. The Investigative Subcommittee need not reach this issue here because the Investigative Subcommittee only has jurisdiction over current House Members, officers and employees.

Likewise, the Investigative Subcommittee has not here determined that Representative Shuster violated or participated in the violation of 18 U.S.C. § 207. However, the Investigative Subcommittee did concern itself with, and has reached a conclusion, regarding involvement by Representative Shuster in situations that raised concerns of the exercise of improper influence by Ms. Eppard. The Investigative Subcommittee found that Representative Shuster engaged in a pattern and practice of knowingly allowing Ms. Eppard to appear before or communicate with him in his official capacity, during the twelve-month period following her resignation as his chief of staff, on occasions and in a manner that created the appearance that his official decisions might have been improperly affected.

Ann Eppard resigned as Chief of Staff from Representative Shuster's office in November, 1994. Because of the level of salary she received while employed by Representative Shuster in his congressional office, Ms. Eppard was subject to the one-year restrictions on contacts with Representative Shuster and his staff following her resignation as discussed herein. Upon her resignation, she immediately established Ann Eppard Associates, a government affairs and consulting business, and became its president. She registered as a lobbyist with the Clerk of the House of Representatives on December 29, 1994, at which time she publicly disclosed for the first time her representation of a client before the House of Representatives. **Exhibit 5.** In January, 1995, Representative Shuster became Chairman of the Committee on Transportation and Infrastructure.

According to material provided to clients by the company, Ann Eppard Associates, Ltd. "specializes in public and government affairs and offers services, primarily in Washington, D.C." These services were described in the company's materials as including: (a) developing long-term political and legislative strategies; (b) building coalitions and establishing networks for clients; (c) creating public policy programs and positioning clients for leadership on these issues; and (d) orchestrating government affairs and lobbying efforts on the state and federal level. Ms. Eppard also emphasized in these client materials, "[w]e offer our clients an extensive network of contacts in Congress, in state capitals, in the corporate world, with international leaders, and local governments." **Exhibit 6.**

Having interests before the House Committee on Transportation and Infrastructure during her first year as a registered lobbyist, Ms. Eppard represented numerous clients, including the engineering and architecture firm of Daniel, Mann, Johnson and Mendenhall ("DMJM"), Amtrak, Conrail, the Pennsylvania Turnpike Commission, the Carmen Group, Federal Express Corporation, the Natural Disaster Coalition, the Metropolitan Washington Airports Authority, Outdoor Advertising

### Association of America and Alcalde and Fay.

As described in more detail below, a few of the appearances or communications of concern involved Ms. Eppard introducing her clients to her former office or involved her participation with clients in meetings or so-called "social" events at which proscribed subjects may not have been discussed in her presence. However, those events were held in almost immediate proximity to, indeed in conjunction with, events at which, outside of her presence, Ms. Eppard's clients did discuss matters of official interest to them with Representative Shuster. When the facts of each such occasion are viewed in their entirety, Ms. Eppard's participation on each such occasion cannot appropriately be considered acceptable "background" participation in that her former colleagues (Representative Shuster and/or his congressional employees) were aware of her participation. These, and each other appearance or communication discussed below, created the appearance that Representative Shuster's official decisions might have been affected by the improper use by Ms. Eppard of her former senior position in his office.

#### 1. Trip to Puerto Rico in February 1995

Representative Shuster traveled to Puerto Rico in February 1995 with Ms. Eppard to visit Tren Urbano, an urban light rail transportation project managed in part by Daniel, Mann, Johnson & Mendenhall ("DMJM"), a Los Angeles based architectural and engineering firm. At the time of this trip, Ms. Eppard was a paid consultant for DMJM, receiving \$5,000/month commencing on or about December, 1994. *Exhibit 7.*

Tren Urbano is located near San Juan, Puerto Rico. During 1995, DMJM was one of four members of a management consortium which was paid \$40 million for the first two years of the Tren Urbano project by the Puerto Rico Department of Transportation and Public Works. DMJM received approximately 26 to 27 percent of the total payments, which were budgeted every two years. According to Gilbert Butler, former DMJM project manager for Tren Urbano who testified before the Investigative Subcommittee, Tren Urbano was one of DMJM's largest projects at the time. DMJM's President and CEO, Raymond W. Holdsworth, described the Tren Urbano project in his testimony before the Investigative Subcommittee as one of five demonstration projects from the Federal Transit Administration, a 12.7 mile light rail system in which DMJM was the lead engineering consultant.

On November 14, 1994, within five days of leaving Representative Shuster's employment, Ms. Eppard met with Nancy Butler, a vice president of DMJM and Edward R. Hamberger, a partner in the Washington, D.C. office of the law firm of Baker, Donelson, Bearman & Caldwell ("Baker Donelson"). Mr. Hamberger had previously worked with Representative Shuster as Staff Director of the House Republican Policy Committee and as Special Counsel to the Chairman for the National Transportation Policy Study Commission when Representative Shuster headed both of those organizations. Ms. Butler's expense report listed the business purposes of the meeting as "Discuss Tren Urbano and Alameda Corridor" and "Discuss potential consultant role with DMJM." *Exhibit 8.*

On November 17, 1994, Mr. Hamberger sent Ms. Butler a letter containing background information on his firm and "some thoughts on how we might work with Ann Eppard & Associates on behalf of the Tren Urbano project in Puerto Rico." *Exhibit 9.* In the letter to Ms. Butler, Mr. Hamberger stated:

As indicated above, we have fortified our team by joint venturing with Ann Eppard who has been the Administrative Assistant to Congressman Bud Shuster for the last twenty-two years. As such, she is intimately familiar with the workings of the Public Works Committee and can provide insight and strategy on how to

achieve authorization of the Tren Urbano project...Both Ann Eppard and myself would be willing to meet with you or anybody you might suggest to further discuss this matter. We look forward to working together with you on the important Tren Urbano project.

On December 9, 1994, Ms. Eppard met with DMJM CEO Holdsworth for breakfast. On December 14, 1994, Ms. Eppard sent a copy of a consulting agreement signed by her and Ms. Butler on December 1, 1994, to DMJM's corporate headquarters in Los Angeles. The consulting agreement was effective as of December 1, 1994. Under the terms of the agreement, Ms. Eppard was to receive \$5,000 a month for her services and was hired by DMJM as a consultant for "[A]dvice and counsel on policy and funding decisions regarding transportation projects nationwide."<sup>8</sup> Mr. Holdsworth and Ms. Butler testified that DMJM hired Ms. Eppard for the purpose of monitoring the appropriations process on Capitol Hill and to give DMJM information regarding legislation.

Representative Shuster's office calendar indicates he was scheduled to meet with Mr. Holdsworth and Ms. Butler in his congressional office for wine and cheese on January 4, 1995, the first day of the 104<sup>th</sup> Congress and the first day of Representative Shuster's chairmanship of the House Committee on Transportation and Infrastructure.<sup>9</sup> *Exhibit 10.*

On the evening of Thursday, February 9, 1995, Representative Shuster attended the Republican National Committee Annual Gala. Representative Shuster and Ms. Eppard sat at a table purchased by DMJM for \$15,000. Prior to the dinner, Ms. Eppard informed Representative Shuster's scheduler through a handwritten note that DMJM had purchased the table with the assurances of Representative Shuster and Ms. Eppard that they would sit at the DMJM table. *Exhibit 11.* Also present at the DMJM table were DMJM vice-president Nancy Butler, DMJM President and Chief Executive Officer Raymond Holdsworth and an official of the Department of Transportation and Public Works for Puerto Rico. During the dinner, the official from Puerto Rico extended an invitation to Representative Shuster to visit the Tren Urbano project in the near future at the expense of the Government of Puerto Rico.

On Monday, February 13, 1995, Ms. Eppard telephoned Ms. Butler to advise her that Representative Shuster would accept the invitation of the Government of Puerto Rico and would like to travel to Puerto Rico the very next weekend. Later that day, Mr. Holdsworth faxed a letter to the official of the Government of Puerto Rico who attended the February 9 dinner and wrote, "I hope you enjoyed yourself Thursday evening. The invitation to Chairman Shuster paid off. Ann Eppard just called Nancy Butler this morning and asked if the Chairman could visit Puerto Rico and the Tren Urbano project this weekend." *Exhibit 12.*<sup>10</sup> The letter went on to say that Representative Shuster wanted to arrive in Puerto Rico on Friday, February 17, 1995, and depart on Monday, February 20, 1995 [Presidents' Day]. Ms. Butler testified that the purpose of the trip was to educate Representative Shuster on the Tren Urbano project and to seek Representative Shuster's support for the project. A former official of the Government of Puerto Rico testified that the objective of the Puerto Rican Government in extending the invitation to Representative Shuster was to demonstrate to Representative Shuster that the Tren Urbano project was worthy of federal investment.

Representative Shuster traveled with Ms. Eppard on the same commercial flight to San Juan, Puerto Rico, on Friday, February 17, 1995. Ms. Butler arrived on Saturday, February 18. Representative Shuster, Ms. Eppard and Ms. Butler stayed at the El Conquistador Resort and Country Club at Las Croabs, Puerto Rico. Representative Shuster's expenses were paid by the Government of Puerto Rico. *Exhibit 13.* On Saturday, February 18, 1995, Representative Shuster had a private dinner with Ann Eppard and Ms. Butler at the Isabella Restaurant in the El Conquistador. The \$203.50 dinner was billed to Representative Shuster's room account which was paid by the Government of Puerto Rico.

The following evening, Representative Shuster, Ms. Eppard, Ms. Butler, other representatives of Ms. Eppard's client, DMJM, and representatives of the Tren Urbano project attended an official dinner hosted by the Government of Puerto Rico. **Exhibit 14.** The next day, Representative Shuster and Ms. Eppard toured the Tren Urbano site by helicopter. After the helicopter tour, they attended a briefing regarding the Tren Urbano project together. Ms. Butler also attended the briefing on the Tren Urbano project. Later that afternoon, Representative Shuster and Ms. Eppard returned together to Washington on a commercial flight. Other charges billed to the Government of Puerto Rico by Representative Shuster for lodging and room service were approximately \$2,100.

On February 21, 1995, the San Juan Star published an article entitled, "Urban train project gets important OK; Shuster 'impressed.'" **Exhibit 15.** The article quoted Representative Shuster as describing the Tren Urbano project as "impressive" and stating "[t]here is money in the trust fund for high-priority projects...and I believe this is a very worthy project." A picture accompanied the article with a caption that read, "Rep. Bud Shuster, left, chairman of the House Infrastructure and Transportation Committee, said after a meeting with Gov. Rossello at La Fortaleza Monday that Puerto Rico's urban train project should have no trouble getting millions in federal funds..."

Ms. Eppard stated during her testimony before the Investigative Subcommittee that she discussed the propriety of her participation in the trip with Representative Shuster prior to their departure, and when she advised Representative Shuster that she would like to go on the trip he approved her participation.

2. Representative Shuster's Lunch With Representatives Of Amtrak And Ms. Eppard

Former Amtrak vice president for government and public affairs, Thomas J. Gillespie, Jr., testified before the Investigative Subcommittee that in December of 1994 or January of 1995, he attended a lunch initiated and organized by Ms. Eppard. The participants at the lunch included Representative Shuster, Ms. Eppard, Amtrak President Tom Downs, Mr. Gillespie and another Amtrak government affairs representative. At the time of this lunch, Ms. Eppard was a paid consultant for Amtrak, receiving \$7,500/month, commencing on or about December, 1994. The lunch lasted approximately ninety minutes, and Representative Shuster and Ms. Eppard were both present for the entire meal. Everyone sat at one table. Mr. Gillespie recalled that during the lunch they discussed Amtrak "problems" with Representative Shuster.

3. Representative Shuster's Dinner With Representatives Of Conrail And Ms. Eppard

Representative Shuster had dinner in his private office in Room 2254 of the Rayburn House Office Building on February 21, 1995 with Ms. Eppard, former Conrail president David LeVan, and William B. Newman, a former Washington, D.C. representative of Conrail. **Exhibit 16.**<sup>11</sup> Immediately prior to the dinner, the Conrail representatives met privately with Representative Shuster in his congressional office out of the presence of Ms. Eppard. Conrail had previously requested a meeting with Representative Shuster for approximately one hour to discuss legislative rail issues. At the time of this dinner, Conrail was the largest employer in Representative Shuster's congressional district and Ms. Eppard was a paid consultant for Conrail, receiving \$15,000/month, commencing on or about December, 1994. Mr. Newman testified that he had retained Ms. Eppard for the purpose of improving Conrail's relationship with Representative Shuster, stating that "there were some things we wanted to do. There were places where we could be helpful to him, he could be helpful to us, so we just wanted to make the best relationship we could with him."

During this dinner, the Conrail representatives discussed issues of general interest to Conrail with Representative Shuster but no specific legislation was discussed in the presence of Ms. Eppard. Mr. Newman testified that waiters served the dinner in Representative Shuster's private office in Room 2254 and he presumed the dinner was catered.<sup>12</sup> Although Mr. LeVan characterized the dinner as "really a social discussion," he acknowledged that the dinner was beneficial and important to Conrail to the extent it assisted him in establishing a personal relationship with Representative Shuster.

#### 4. Representative Shuster's Attendance At Other Dinners With Ms. Eppard And Her Clients

Representative Shuster attended several dinner meetings in 1995 with Ms. Eppard and representatives of her clients, including the Outdoor Advertising Association of America, the Pennsylvania Turnpike Commission and the engineering firm Day and Zimmerman, at a time when Ms. Eppard was a paid consultant for these clients.

Nancy Fletcher, president of the Outdoor Advertising Association of America, ("OAAA"), a client of Ann Eppard Associates during 1995, testified before the Investigative Subcommittee that on July 6, 1995, the OAAA held a fundraiser for Representative Shuster in New York City. Ms. Fletcher hosted the fundraiser, which was held in the OAAA boardroom at its New York office. She estimated that fourteen to fifteen individuals attended the fundraiser, including Ms. Eppard. Ms. Fletcher testified that after the fundraiser, a smaller party went to dinner at the Rainbow Room restaurant, located in the RCA building in Rockefeller Center. She recalled that the members of the dinner party included Representative Shuster, Ms. Eppard, Ms. Fletcher and her husband, James McAndrews and Donald Davidson. She testified that Mr. McAndrews was the head of Matthew Outdoor Advertising and Mr. Davidson was the president of Gannett Outdoor Advertising Company. Both companies were members of the OAAA. Ms. Fletcher also testified that OAAA paid the \$419.98 bill for the dinner. *Exhibit 17*. She recalled that no legislation was discussed with Representative Shuster at the dinner.

Edward Hamberger, former managing partner for Baker, Donelson, Bearman and Caldwell, a Washington, D.C. law firm engaged in lobbying, testified that he recalled having dinner in the Rayburn House Office Building on the evening of September 27, 1995, with Representative Shuster and Ms. Eppard. At the time, Ms. Eppard and Ann Eppard Associates subcontracted with Mr. Hamberger's firm as a joint consultant for four clients, including the Pennsylvania Turnpike Commission and Day and Zimmerman, an engineering firm. Mr. Hamberger testified that two representatives of those clients also attended the September 27, 1995 dinner: John Durbin, executive director of the Pennsylvania Turnpike Commission, and Joseph LaSalla, a vice president for Day and Zimmerman. Ms. Eppard's office calendar for September 27, 1995 reflected a handwritten note that read "fiberoptics" beneath the entry of the dinner on her calendar. *Exhibit 18*.<sup>14</sup> Mr. Hamberger testified that at the time the dinner took place, the Pennsylvania Turnpike Commission was interested in using the Turnpike as a route for fiberoptic cables to be used to link schools to the Internet. He did not recall whether that topic was discussed during the dinner but he did recall that at one point, Ms. Eppard left the room for about twenty minutes when business was mentioned.

Ms. Eppard's office calendar for September 27, 1995 also indicated that Jack Schenendorf, Chief of Staff for the Transportation Committee, also attended the dinner. During his appearance before the Investigative Subcommittee, Mr. Schenendorf confirmed that he attended the dinner and that Ms. Eppard excused herself when the topic of conversation turned to business relevant to the Pennsylvania Turnpike or Day and Zimmerman.

5. Ms. Eppard's Involvement With Representative Shuster's Official Calendar To Arrange Or Approve Appointments For Her Clients

From the time Ms. Eppard resigned from Representative Shuster's office in November, 1994, and for a period of at least 12 months thereafter, Representative Shuster routinely accepted and encouraged the extensive involvement of Ms. Eppard in scheduling matters for him that were official in nature and which should have been performed by his congressional staff.

The Investigative Subcommittee heard the testimony of several current and former employees from Representative Shuster's congressional office concerning Representative Shuster's appointment requests during 1995. The record indicates that between November 9, 1994, and November 9, 1995, Ms. Eppard had communications with employees of Representative Shuster regarding appointment requests concerning several clients of Ms. Eppard's firm, Ann Eppard Associates, Ltd. In many instances, Representative Shuster attended the event as requested by Ms. Eppard's client.

Ms. Eppard's involvement included input into Representative Shuster's schedule, including but not limited to her clients Amtrak, the Pennsylvania Turnpike Commission and the Carmen Group as discussed in greater detail below.

a. *Request from Ann Eppard's Client Amtrak*

As stated above, Amtrak employed Ms. Eppard as a consultant beginning in the late fall of 1994. Evidence indicates that on December 23, 1994, Ann Eppard Associates, Ltd., deposited a \$5,000 check from Amtrak in its bank account.

Representative Shuster's office provided the Investigative Subcommittee with a copy of an internal handwritten memo from one member of his congressional staff to his scheduler. The memo states that "Ann called to set up a meeting for tomorrow at 11:30 a.m. with Padisha Madda of the Japanese Export/Import Bank... This has something to do with Amtrack (sic). Glenn of T&I should be at the meeting. I don't believe he knows anything about this. The next time you talk to her, please confirm because everything was given to me in a rush." **Exhibit 19.** Representative Shuster's official calendar for January 31, 1995, indicates that he had a meeting scheduled at 11:30 a.m. with "Paddisa Madda, Jap. Export/Import" and other individuals in his congressional office. **Exhibit 20.**

Representative Shuster's office provided the Investigative Subcommittee with a copy of a letter to Representative Shuster from Thomas M. Downs, the President of Amtrak, dated August 16, 1995. In the letter, Mr. Downs gave Representative Shuster information regarding a "Railfest" to be held in Altoona, Pennsylvania in October 1995. The copy of the letter provided to the Investigative Subcommittee contained a circled handwritten notation indicating, "yes."<sup>15</sup> **Exhibit 21.**

Ms. Eppard confirmed during her appearance before the Investigative Subcommittee that the "yes" notation on the letter was written by Ms. Eppard. After hearing the testimony of Ms. Eppard and two of Representative Shuster's employees, the Investigative Subcommittee further determined that the "yes" notation indicated Ms. Eppard's approval of Representative Shuster's attendance at the "Railfest," an event hosted by the Altoona community. One of Representative Shuster's employees testified that Representative Shuster often used a heavy black felt pen to circle Ms. Eppard's recommendations to signify that he intended to follow her recommendation. A copy of Representative Shuster's personal calendar for Saturday October 14, 1995 contains an

entry that reads "10 Railfest (kids)." *Exhibit 22.*

*b. Request from Ann Eppard's Client the Pennsylvania Turnpike Commission*

Representative Shuster's office provided the Investigative Subcommittee with a copy of an appointment request from the Pennsylvania Turnpike Commission dated May 13, 1995, inviting Representative Shuster to attend a groundbreaking ceremony for Mon/Fayette Expressway from I-70 to State Route 51 on June 2, 1995. *Exhibit 23.* At the time of this request, Ms. Eppard was a paid consultant for the Pennsylvania Turnpike Commission, receiving \$8,333/month, commencing on or about February 27, 1995.

The document contains a handwritten note from Representative Shuster's chief of staff to "ask Ann." The invitation bears a handwritten instruction from Ms. Eppard, presumably written in response, that reads "if he wants to, then I could set up a fundraiser." It appears, however, that Representative Shuster did not attend this event.

*c. Request from Ann Eppard's Client the Carmen Group*

Representative Shuster's office provided the Investigative Subcommittee with a copy of letter dated May 5, 1995, addressed to Representative Shuster inviting him to attend the National Association of Flood and Stormwater Management Agencies (NAFSMA) annual meeting from November 1 - 4, 1995. *Exhibit 24.* Representative Shuster's office also provided the Investigative Subcommittee with a copy of an internal memorandum dated July 18, 1995, on the letterhead of LMRC, an affiliate of the Carmen Group, addressed to David Carmen and from Joci Shrewder regarding "Request for Shuster at NAFSMA Annual Meeting" with a copy of the May 5 letter addressed to Representative Shuster. *Exhibit 25.* At the time this correspondence was generated, Ms. Eppard was a paid consultant for the Carmen Group, receiving \$5,000/month, commencing on or about March 9, 1995.

The internal memo dated July 18, 1995, bears a handwritten note from Ann Eppard to Representative Shuster's chief of staff that reads, "See if the boss can do and call [another employee at Ann Eppard Associates.]" Representative Shuster's office provided the Investigative Subcommittee with a copy of the NAFSMA 1995 Annual Meeting Update which states that Representative Shuster, Chairman of the Committee on Transportation and Infrastructure, has confirmed that he will make the meeting's keynote address during a luncheon on Thursday, November 2.<sup>16</sup> The NAFSMA Annual Meeting Agenda also lists Representative Shuster as its keynote speaker on November 2. David Carmen, Chief Executive Officer of the Carmen Group, stated in his testimony before the Investigative Subcommittee that he could not recall whether Representative Shuster actually spoke at this event.

6. Ann Eppard's Introduction Of Her Clients To Representative Shuster In His Congressional Office

During 1995, Ms. Eppard frequently introduced her clients to Representative Shuster in his congressional office in Room 2188 of the Rayburn House Office Building before the clients met with Representative Shuster out of the presence of Ms. Eppard.

A former employee in Representative Shuster's personal office testified before the

Investigative Subcommittee that during 1995, Ms. Eppard routinely brought clients by the office and introduced them to Representative Shuster before the clients had an appointment with Representative Shuster. The witness estimated that this occurred approximately twice each month during 1995. The witness also testified that Ms. Eppard would normally leave the room after the introduction and would not remain present for the meeting between her clients and Representative Shuster.

#### 7. Flights On Corporate Jets Owned By Federal Express Corporation

On approximately six (6) occasions during 1995, Representative Shuster flew on chartered corporate jets owned by Federal Express Corporation ("Federal Express") with Ms. Eppard and government affairs representatives of Federal Express at a time when Ms. Eppard was a paid consultant for Federal Express. At the time of these trips, Ms. Eppard was a paid consultant for Federal Express, receiving \$5,000/month commencing on or about March 1, 1995. *Exhibit 26*.

On several occasions other individuals flew with Representative Shuster and Ms. Eppard, including congressional staff members working for Representative Shuster or business associates of Ms. Eppard. On each occasion, the Bud Shuster for Congress Committee paid the equivalent of first class airfare to Federal Express for the use of the jets for Representative Shuster and Ms. Eppard. *Exhibit 27*. On each occasion a Federal Express government affairs representative accompanied Representative Shuster and Ms. Eppard. These occasions included:

- o April 17, 1995: Chicago, IL to Los Angeles, CA
- o April 25, 1995: Palm Springs, CA to Washington, DC
- o June 3, 1995: Washington, DC to Boston, MA<sup>17</sup>
- o August 27, 1995: Rogers, AR to Memphis, TE
- o August 29, 1995: Houston, TX to Santa Barbara, CA
- o August 30, 1995: Santa Barbara, CA to Washington, DC

One government affairs representative for Federal Express stated in his testimony before the Investigative Subcommittee that "we generally tried to do any trip that Mr. Shuster wanted to do." He explained this was because Representative Shuster was the Chairman of the "main committee that has jurisdiction over FedEx's issues." The government affairs representative further testified that "relationship-building" was "the benefit and the primary purpose of doing these trips."

The government affairs representatives of Federal Express who testified before the Investigative Subcommittee also emphasized that Federal Express has a policy not to engage in conversation regarding legislation with a Member of Congress on an aircraft owned by Federal Express unless asked a direct question by the Member. Three government affairs representatives from Federal Express testified before the Investigative Subcommittee and none could recall a discussion of any specific legislative issues with Representative Shuster and Ms. Eppard during the 1995 flights.

The Investigative Subcommittee noted that both Ms. Eppard and Federal Express considered relationship building an important goal of meetings with Members of Congress, as evidenced in the appearance of Sandra Dickey before the Investigative Subcommittee:

Q Did you perceive the presence of a government affairs representative on the plane

with Congressman Shuster specifically in 1995 as a lobbying opportunity?

A No.

...

Q Ms. Dickey, if you would please direct your attention forward to Exhibit No. 124.<sup>18</sup>

A Yes.

Q This is a memo we reviewed with you when we met with you informally last time. It appears to be a memo from you to Fred Smith [Chairman and CEO], with a copy to Mr. Masterson [Executive Vice-President and General Counsel] and Mr. Cloud [Vice-President of Government Affairs], dated January 11, 1996. Do you recognize this document?

A Yes.

Q Did you author this document?

A Yes.

Q On the second paragraph you appeared to have written that "this trip could be very beneficial to us. In light of the new lobbying laws which took place on January 1, the use of our aircraft is the only legitimate lobbying tool remaining."

Q Could you describe for the subcommittee in what sense you felt this trip would be beneficial to you?

A As I recall, the new lobbying laws changed at the end of 1995.

Q Do you mean the House gift rule?

A Yes. I call that the lobbying laws. Prior to 1996, we were involved in various kinds of entertainment, taking people out to dinner, socializing, which we were prohibited from doing. I think I was trying to say that with those opportunities taken away, the use of our airplane was still an acceptable opportunity to get to know Members of Congress, to be on the airplane with them, but not to discuss specific issues, because we have a policy not to lobby on the airplane.

Q What is that policy?

A The policy is that anybody in government affairs or anybody with Federal Express is not to engage in a conversation regarding legislation with a Member of Congress unless we are specifically asked a direct question. We think one of the reasons our airplane has been used as often as it is because we have that policy.

.....

Q All right. So when you say in the second sentence, "The use of our aircraft is the only legitimate lobbying tool remaining," is it your testimony -- could you reconcile --?

A I think that was a bad choice of words. I meant from a government affairs perspective, the use of our airplane was a legitimate tool. I think I was talking about relationships, establishing relationships, not lobbying.

Q Is it your testimony that establishing a relationship with a Member of Congress is not lobbying unless you're discussing legislation specifically?

A Yes.

Q That is your testimony?

A Yes.

...

Q If you will turn to [Exhibit] number 26, addressed to Mr. Schenendorf, you stated, "It was a pleasure meeting June last week and spending time with you, Chairman Shuster and Ann Eppard in Palm Springs.<sup>19</sup> I look forward to working with you during the 104th Congress on transportation issues regarding FedEx. As a memento of our flight across the country, enclosed is a FedEx umbrella for those rainy D.C. days."

Q Do you recall writing that letter to Mr. Schenendorf?

A Yes.

.....

A I was on the FedEx aircraft with Congressman Shuster on a trip to Palm Springs.

Q How long were you in Palm Springs, if you recall?

A Two days.

Q Okay. And do you recall what Congressman Shuster and Mrs. Eppard were doing in Palm Springs?

A He was attending a conference of the American Railway Association.

Q Was your exclusive purpose there simply because the plane was there?

A We flew to pick him up in Palm Springs. We did not take him to Palm Springs.

Q So you flew out 2 days before the plane was scheduled to leave Palm Springs?

A I flew commercial.

Q I see.<sup>20</sup>

By traveling on Federal Express corporate jets on a regular basis during 1995 with Ms. Eppard and government affairs representatives of Federal Express during a time when Ms. Eppard was restricted in her contacts with Representative Shuster on behalf of her clients, Representative Shuster created a circumstance that might be construed by reasonable persons as permitting Ms. Eppard to influence the performance of Representative Shuster's official actions during the twelve-month period immediately following her resignation from his office.

#### 8. Other Dinners In Room 2254 Of Rayburn House Office Building

During 1995, Representative Shuster permitted Ms. Eppard and/or Ann Eppard Associates to organize

numerous dinners with Representative Shuster and her clients or persons affiliated with her clients and/or her business associates, in Room 2254 of the Rayburn House Office Building. Many of these dinners were paid for entirely or in part by Ms. Eppard's business, Ann Eppard Associates, or by her clients and persons associated with her clients. Although these activities may not constitute specific appearances or communications, as did the activities described in the foregoing sections, the Investigative Subcommittee was also troubled by this conduct.

These included two dinners for Vernon Clark on March 6, 1995 and March 29, 1995. Vernon Clark was the former president of OAAA and in 1995 headed Vernon Clark Associates, a lobbying firm. During this time period, Mr. Clark's firm represented a member of the OAAA. Catering records indicate that Ann Eppard Associates paid for a portion of a birthday dinner on March 6. Vern Clark and Associates paid for the other portion of the dinner.<sup>21</sup> Ann Eppard Associates paid for all of a dinner for four guests on March 29.<sup>22</sup> The Investigative Subcommittee also received testimony that Mr. Clark was a personal friend of both Representative Shuster and Ms. Eppard.

The dinners organized by Ann Eppard Associates also included a dinner for AEA clients Amtrak on June 21, 1995 (6 guests), and the Pennsylvania Turnpike Commission on June 28, 1995 (5 guests.) According to records obtained by the Investigative Subcommittee from the Alexandria Pastry Shop, Ann Eppard Associates paid for both dinners.<sup>23</sup>

Finally, records indicate AEA organized a dinner on March 15, 1995, that was scheduled in Room 2254 for Edward Hamberger and his client, the Foothill Transit Group (12 guests). Mr. Hamberger's law firm, Baker Donelson, paid for the dinner.<sup>24</sup>

The Investigative Subcommittee was troubled by the appearance created by Ms. Eppard and her firm in organizing private dinners for clients of Ms. Eppard and persons associated with those clients in Representative Shuster's private office during the period when Ms. Eppard was subject to the federal law that restricted her post-employment communications with Representative Shuster on behalf of her clients. While organizing dinners in and of itself may not have violated the statute, the Investigative Subcommittee found that Ms. Eppard's conduct created the appearance that her activities may have improperly affected Representative Shuster's official conduct.

#### Findings of Investigative Subcommittee

Based on the foregoing, the Investigative Subcommittee found that Representative

Shuster engaged in a pattern and practice of knowingly allowing Ms. Eppard to appear before or communicate with him in his official capacity during the twelve-month period following her resignation as his Chief of Staff on occasions and in a manner that created the appearance that his official decisions might have been improperly affected.

While, as discussed above, the standard of conduct relevant to the appearances and communications at issue here is embodied in a statute – 18 U.S.C. § 207(e)(2) – the Investigative Subcommittee has not here reached the issue of whether Representative Shuster, Ann Eppard or any other person violated this statute. The Investigative Subcommittee has found that Representative Shuster's conduct was contrary to an underlying purpose of the conflict of interest standards as they relate to former government officials, that is, to diminish any appearance that Government decisions might be affected by the improper use by an individual of his or her former senior position. Given the repeated nature of this conduct, the Investigative Subcommittee has deemed that conduct to be one of the bases upon which it has found that Representative Shuster has engaged in conduct which does not reflect creditably on the House.<sup>25</sup>

### C. VIOLATIONS OF HOUSE GIFT RULES

The Investigative Subcommittee found that, in connection with a trip to Puerto Rico taken by Representative Shuster and several members of his family between December 26, 1995, and January 3, 1996, Representative Shuster, directly or indirectly, accepted payment of or reimbursement for expenses in the approximate total amount of \$4353 from Daniel, Mann, Johnson and Mendenhall ("DMJM"), from DMJM's employee Gilbert Butler, and from the Outdoor Advertising Association of America ("OAAA"). The primary purpose of this trip was recreational. Under the circumstances presented by this trip, Representative Shuster's acceptance, directly or indirectly, of payment of or reimbursement for expenses in connection with the trip violated House Rule 43(4), the gift rule in effect through December 1995, and violated House Rule 52, the gift rule in effect as of January 1, 1996. The current gift rule is Clause 5 of House Rule 26.

On his Financial Disclosure Statement for calendar year 1995, Representative Shuster indicated that he received expenses from R. J. Reynolds-Nabisco and Daniel, Mann, Johnson and Mendenhall ("DMJM") related to a trip from Washington, D.C., to San Juan, Puerto Rico, from December 26 to December 31, 1995 [six (6) nights.] He indicated that he personally incurred expenses for three (3) days of this trip. *Exhibit 32.* On his Financial Disclosure Statement for calendar year 1996, Representative Shuster indicated that he received expenses from R. J. Reynolds-Nabisco (through OAAA) and Daniel, Mann, Johnson and Mendenhall ("DMJM") related to the same trip to Puerto Rico from January 1 to January 2, 1996 [two (2) nights.] *Exhibit 33.* He indicated that he personally incurred no expenses for the portion of the trip that occurred in January, 1996. Thus, read together, Representative Shuster's financial disclosure forms indicate that he personally paid for three (3) days of travel, all of which, according to his filings, occurred in 1995. This indicates that the remaining nights were paid by the private organizations listed on each disclosure form. Since Rule 52 became effective during the course of this trip, the trip was subject to the requirements of Rule 43(4) through December 31, 1995, and to the requirements of Rule 52 beginning on January 1, 1996.

#### 1. Expenses from Daniel, Mann, Johnson and Mendenhall ("DMJM")

Gilbert Butler, a retired employee from Daniel, Mann, Johnson and Mendenhall ("DMJM"), testified before the Subcommittee on October 26, 1999. Mr. Butler was project manager of the Tren Urbano light rail project in Puerto Rico from September 1994 until November 1995.

Mr. Butler testified that he was asked to help secure a lease for lodgings for Representative Shuster and his family for a trip to Puerto Rico over the Christmas holidays in December 1995. Mr. Butler could not recall whether Nancy Butler (another employee of DMJM) or Lourdes Perez (communications for Puerto Rico DOT) contacted him to request his assistance.

Raymond Holdsworth, CEO and President of DMJM, sent a fax to an official with the Puerto Rico Department of Transportation on April 17, 1995, to request his assistance in locating suitable lodgings for the Shuster family during the Christmas holidays. *Exhibit 34.* The official, who appeared before the Subcommittee on November 9, 1999, testified that he was aware of a rental property owned by a private individual named Kenneth McGrath that might be suitable for the Shuster family's needs and that he forwarded this information immediately to Mr. Holdsworth.<sup>26</sup> In a fax sent to the official on April 18, 1995, Mr. Holdsworth indicated that he had met with Representative Shuster in Los Angeles that day (for a fundraiser and tour of a transportation project) and that Representative Shuster "knows and likes the area [where McGrath's property was located] and believes the accommodations would be perfect for his needs." *Exhibit 35.*<sup>27</sup>

Mr. Butler ultimately contacted the owner of the property and secured the lodgings for the Shuster family consisting of a four-bedroom villa and a two-bedroom villa located in Vega Alta, Puerto Rico. These

lodgings for eight (8) nights (from December 26, 1995, until the Shuster family departed on January 3, 1996) were secured as reflected in two contracts dated July 7, 1995.<sup>28</sup> *Exhibit 36.*

On September 25, 1995, Representative Shuster sent his personal check in the amount of \$500 as a deposit with a letter written on congressional letterhead to Mr. McGrath, the owner of the villas, with a letter stating that "I understand the organizations to whom I will be speaking will be paying for the other dates."<sup>29</sup> As of the date this letter was written, Representative Shuster had not received invitations from the OAAA or DMJM to participate in speaking engagements during his stay in Puerto Rico. At no time during his vacation in Puerto Rico did Representative Shuster have any speaking engagements before the OAAA or DMJM.

Between December 26, 1995, and January 3, 1996, Representative Shuster and members of his family stayed at the two villas in Vega Alta, Puerto Rico, near San Juan, Puerto Rico. One of the villas had four bedrooms and the other structure was a two-bedroom villa. The total amount charged for renting these villas for the eight nights of the trip was approximately \$4228. Of this total, Representative Shuster paid \$1071, representing the cost of the rental for two nights. The balance for the remaining six nights was paid by OAAA and DMJM, both clients of Ann Eppard Associates, in the amounts of \$1607 and \$1610 respectively.<sup>30</sup>

During the period of this stay in Puerto Rico, Representative Shuster and members of his family frequented the Hotel Cerramar, a beach and golf resort adjacent to the villas in which they were staying, where they used a club membership card owned by Gilbert Butler to pay for meals, cocktails and other refreshments. The total charged to Mr. Butler's club membership account by the Shuster family during their stay was at least \$1,136. Neither Representative Shuster nor any member of his family repaid any of this amount to DMJM or to Mr. Butler.

Mr. Butler testified that Nancy Butler (a co-worker who coincidentally has an identical surname but is not related to Mr. Butler) asked him whether the Shusters could use the club facilities located at the Cerromar. Ms. Butler testified that Gilbert Butler offered to arrange access for the Shusters to the facilities for the limited purpose of using the swimming pool and health club. Mr. Butler was a member of the club but was scheduled to be away from Puerto Rico during the Christmas holidays. The club manager told Mr. Butler that consistent with its policy, the Shusters could not use the club facilities unless Mr. Butler personally accompanied them. Another individual who was affiliated with the Tren Urbano project through fellow-GMAEC consortium member Frederick R. Harris intervened with the club general manager and secured permission for the Shusters to use the club as Mr. Butler's guests during their stay.

Nancy Butler testified that she had explained to Representative Shuster's Chief of Staff that DMJM would pay for three nights lodging for the Shuster family but that the offer did not extend to transportation, meals or refreshments. Ms. Butler also testified that she advised Representative Shuster's congressional staff that he and his family would be permitted to use the swimming pool and health club at the Hotel Cerramar. She testified that the club membership card owned by Gilbert Butler was made available to Representative Shuster at the time he collected his keys to the villas. Ms. Butler testified that she was unaware that the club membership card could be used for meals, beverages and other refreshments.

Mr. Butler testified that Representative Shuster and members of his family signed Mr. Butler's name each time they charged an item to his account at the Hotel Cerramar:

Q: Was it clear to Representative Shuster that it was your card that he was using to charge?

A: Yes, it's my name on it.

Q: But he was signing his name?

A: No, he signed my name.

Q: He was signing your name?

A: Yes. Our signatures are enough different. And then, of course, the time -- all of those bills when the invoice statement comes from the club, it's by date, so it was easy. Our latest charge was like the 17th or the 18th of the month [December], and then we left. You know, so it was easy to determine which charges were his.<sup>31</sup>

Raymond Holdsworth testified that he declined to reimburse Mr. Butler for these meal and refreshment expenses due to his belief, based on erroneous advice of DMJM's legal department, that the company could pay a maximum of \$2000 for lodging and related expenses for Representative Shuster. DMJM had paid \$1610 for lodging for the Shuster family. Even though DMJM would have been permitted to reimburse Mr. Butler for approximately \$400 of these expenses under its erroneous interpretation of the law, it declined to do so. Mr. Butler testified that Mr. Holdsworth asked him to assume personal responsibility for all of the expenses incurred by Representative Shuster and members of his family at the Cerromar Hotel:

Q And did DMJM reimburse you for those expenses?

A No.

Q Could you tell us why not?

A I asked when I got the bill and was a little surprised. I asked if I could have some help with that, and I asked Holdsworth specifically, I believe. And he said no, and, you know, take one for the team so to speak.

Q Did he provide you a reason as why he wanted you to --?

A No, not that -- I don't recall him giving a specific reason, just, Gil, hey, we can't do it. And this was not unusual as an officer of the company, I had written a lot of checks, you know, for bipartisan this, bipartisan that. And counsel this or this sort of thing.

Q Had you written checks of that size for Members of the House?

A \$500 was the highest I had written before. Now, we -- the total costs to me was not \$1200, because we got a 10 percent rebate on or a discount on charges. So it was the 1200 less the 10 percent.

Q Did you ever seek reimbursement from Congressman Shuster?

A No.

Q Do you have any idea as to whether Congressman Shuster is aware that you personally paid those expenses rather than DMJM?

A He probably hasn't got a clue.<sup>32</sup>

Mr. Butler testified that as a club member, he ultimately received a 10% discount on all charges, resulting in paying total expenses for the Shusters' expenses in the amount of \$1,136.35 less 10%. During his testimony, Mr. Butler estimated that the total charged by the Shusters to his personal account was approximately \$1200. He subsequently provided the Subcommittee with receipts suggesting that the total amount charged by the Shuster family from their arrival through December 31, 1995, was \$1,136.35. Mr. Butler was unable to provide the Subcommittee with receipts for the January portion of the Shusters' stay.

The receipts reveal that in addition to numerous miscellaneous charges, the Shusters incurred dinner charges in the amount of \$163.25 on December 26, 1995. The Shusters charged one meal to Mr. Butler's account on December 28, 1995, in the amount of \$567.15. The Shusters incurred a separate beverage charge for December 28 in the amount of \$143. Other charges appear to have been on other occasions for hot dogs, burgers, sandwiches, beer, wine, cocktails, soft drinks and bicycle rentals. *Exhibit 38.*

Mr. Butler testified that Jack Houser, an employee in DMJM's legal department, called Mr. Butler prior to Representative Shuster's arrival and advised him that in order for DMJM to make the payments for lodging on behalf of Representative Shuster, Representative Shuster would have to meet with Mr. Butler to discuss Tren Urbano or other transportation issues. Since all personnel from the GMAEC consortium were out of town for the holidays, Mr. Butler contacted DMJM architect Janos Hegede who was staying in Puerto Rico and asked him to meet with Representative Shuster.

Other evidence obtained by the Investigative Subcommittee revealed that on or about December 29, 1995, Representative Shuster met with an official of the Department of Transportation for Puerto Rico, and Mr. Hegede from DMJM at the Hotel Cerramar for approximately two hours to discuss the Tren Urbano light rail project in San Juan. As late as December 11, 1995, the Puerto Rican official had contacted Representative Shuster by letter to invite him to tour a coffee plantation while he was in Puerto Rico stating that he knew Representative Shuster's trip over the holidays was "a recreational one." *Exhibit 39.*<sup>33</sup> Representative Shuster declined the invitation to tour the coffee plantation, but sometime after December 11, the meeting at the Hotel Cerramar was scheduled to discuss the Tren Urbano project with the official and Mr. Hegede.

## 2. Expenses from Outdoor Advertising Association of America ("OAAA")

Nancy Fletcher, President and CEO of the Outdoor Advertising Association of America ("OAAA"), testified that she attended a bridal shower for Representative Shuster's daughter, Gia Shuster, in May, 1995, at the home of Ann Eppard. Ms. Fletcher testified that at the bridal shower, she was approached by Nancy Butler of DMJM. According to Ms. Fletcher's testimony, Ms. Butler informed her that Representative Shuster was going to be in Puerto Rico over the Christmas holidays and wanted to ascertain whether there was a field trip that would be helpful or important for outdoor advertising.<sup>34</sup> Ms. Fletcher advised Ms. Butler that R. J. Reynolds ("RJR") owned billboards in Puerto Rico, that there were billboard issues that were pending before Congress and that she thought RJR could set up a field visit for Representative Shuster over the Christmas holidays.

Ms. Fletcher testified that subsequent to their discussion at the bridal shower, Ms. Butler contacted Ms. Fletcher or someone in her office, sent a fax, and asked OAAA to pay for two or three nights lodging. Ms. Fletcher said that OAAA did not request that Representative Shuster come to Puerto Rico. Rather, Ms. Fletcher testified that the idea to pay for part of Representative Shuster's lodging was based on Nancy Butler's suggestion that Representative Shuster would be in Puerto Rico and Ms. Butler's request that a business-related event occur to justify his acceptance of the lodging paid by a third party.

During her appearance before the Investigative Subcommittee, Ms. Fletcher testified that during this period, R. J. Reynolds was the second largest advertiser on billboards in the United States and she knew that there was a R. J. Reynolds facility in Puerto Rico. She contacted Vern Clark, a friend of Representative Shuster and former President of OAAA, for assistance in requesting that individuals in the government relations division of R. J. Reynolds organize an appropriate "field trip" for Representative Shuster. Ms. Fletcher testified that there were no billboard issues impacting R. J. Reynolds that were specific to Puerto Rico at the time of Representative Shuster's visit, but that generally any field visit consisting of looking at billboards could be highly educational. She testified that "it's very instructive to get in a car and go drive around and see which [billboards] are nonconforming."<sup>35</sup> On December 20, 1995, the OAAA paid \$420 to Dorado Transport Company, a limousine service located in Puerto Rico, to provide transportation to

Representative Shuster so that he could take a tour of billboards. *Exhibit 40.*

Sometime prior to Representative Shuster's scheduled departure for Puerto Rico, Ms. Fletcher telephoned his congressional office to ensure that the meeting was scheduled between Representative Shuster and a representative of RJR and that it was going to take place. It was her understanding that Representative Shuster was going to take a tour of billboards in Puerto Rico. She learned only after the fact that the tour never took place, that the hired limousine was not used for a tour of billboards and that Representative Shuster had met with the RJR general manager at another location. She knew no details of the meeting.

On December 28, 1995, Representative Shuster met for approximately one hour with Marc Voigt, an employee of an R. J. Reynolds manufacturing facility in Puerto Rico, at the Hotel Cerramar and discussed the activities of the R. J. Reynolds facility. During his testimony before the Investigative Subcommittee, Mr. Voigt stated that he had previously agreed to open the R. J. Reynolds facility, which was closed for the holidays, to give Representative Shuster a tour of the facility. Representative Shuster cancelled the tour, however, and instead met with Mr. Voigt at the Hotel Cerramar where they met informally. During their meeting, Representative Shuster asked Mr. Voigt to describe his responsibilities at R. J. Reynolds and asked about the products they produced and where they were sold. He testified that Representative Shuster told him he was on a transportation committee and was in Yabuco talking to different business people. He further testified that their meeting was short, probably less than an hour. Mr. Voigt had no talking points, briefing papers or anything of that sort. Mr. Voigt had never met Representative Shuster prior to this short meeting and had no subsequent contact with him. Their refreshments consisted of soft drinks, water or iced tea which Mr. Voigt billed to his club account and for which he sought no reimbursement from R. J. Reynolds. No other person attended the meeting with Representative Shuster and Mr. Voigt.

Donald Foreman, Director of Federal Government Relations for R. J. Reynolds in Washington, D.C., appeared before the Subcommittee on November 3, 1999. Mr. Foreman confirmed that R. J. Reynolds paid none of Representative Shuster's expenses associated with the trip to Puerto Rico other than the modest expense Mr. Voigt incurred for beverages. Mr. Foreman testified that R. J. Reynolds did not provide any in-kind gifts to Representative Shuster in the form of lodging or transportation.

### 3. Findings of Investigative Subcommittee

During this trip to Puerto Rico, Representative Shuster did not participate in any other meetings or events with, or organized by or for, DMJM or OAAA.<sup>36</sup>

House Rule 43, Clause 4, the gift rule in effect through December 1995, provided, in pertinent part and with certain exceptions, that a "Member . . . or employee of the House of Representatives shall not accept gifts (other than personal hospitality of an individual or with a fair market value of \$100 or less) . . . in any calendar year aggregating more than . . . \$250, . . . directly or indirectly from any person." Under Rule 43, Clause 4, Members or employees were permitted to accept travel expenses from private sources in connection with "substantial participation events" or fact-finding. Members or employees were permitted to accept necessary expenses from a private source if the Member or employee substantially participated in an event directly associated with the payer; that is, to accept expenses, the Member or employee was required to provide services of roughly equivalent value to the expenses received. The services were required to be more than perfunctory.

Even where a Member or employee rendered no services, Rule 43, Clause 4, permitted acceptance of necessary expenses for a fact-finding tour taken for educational purposes directly related to official duties. Under the rule, such travel could not be for the personal pleasure or entertainment of the Member or employee. The sponsor of a fact-finding travel had to be directly and immediately associated with the event or location being visited. The term "fact-finding event" was intended to be interpreted narrowly. Under Rule 43, Clause 4, a Member or employee was allowed to accept travel expenses for an accompanying spouse or one other family member, but acceptance of travel expenses for more than one accompanying

relative was not permissible. House Ethics Manual (April 1992) at 37-39, 43-44.

House Rule 52, the gift rule which went into effect January 1, 1996, prohibited Members and employees from accepting any gift except as specifically provided in the rule. Rule 52 continued to allow Members and staff to accept necessary expenses from private sources, other than registered lobbyists or agents of a foreign principal, to travel to meetings, fact-finding trips and similar events in connection with official duties. Under Rule 52, necessary expenses were limited to reasonable expenses for transportation, lodging, conference fees and materials, and food and refreshment incurred in connection with the official connected activity. Expenditures for recreational activities were specifically and explicitly excluded from the term "necessary expenses." Under Rule 52, travel expenses could include expenses incurred on behalf of a spouse or a child accompanying the Member or employee on the trip. Advisory Memorandum on "The New Gift Rule," *Committee on Standards of Official Conduct*, U. S. House of Representatives, December 7, 1995.

The gift rule allows Members and employees to accept travel expenses from private sources for the sole purpose of enabling them to engage in activities that are related to their official House duties, such as to speak at or otherwise participate in a conference or meeting, or to engage in *bona fide* fact-finding. The provisions of the rule on acceptance of travel expenses are clearly not to be used as a ruse to enable outside interests to pay for vacations for Members or employees. This point is abundantly clear in the language of the gift rule itself, in the guidance provided by the Committee on Standards of Official Conduct, and is reinforced by the provision of the House Code of Official Conduct requiring Members and employees to adhere to both the spirit and the letter of the House rules.

To the extent that Representative Shuster participated in any activity or event associated with the payer(s) or reimbursor(s) of any of the expenses of the trip to Puerto Rico from on or about December 26, 1995, to on or about January 3, 1996, or to the extent that during this trip Representative Shuster participated in any activity or event in connection with his official duties, such participation did not reasonably justify Representative Shuster's acceptance, directly or indirectly, of the expenses received from private sources in connection with this trip in its entirety or in connection with the 1995 portion or the 1996 portion of this trip. Even if Representative Shuster's participation in activities or events during this trip justified his acceptance of some portion of the expenses of this trip from private sources, at most such expenses, if otherwise justified, could only be accepted to the extent incurred by Representative Shuster and only one other family member. As such, the Investigative Subcommittee found substantial reason to believe that Representative Shuster's acceptance of these expenses from DMJM and OAAA violated the applicable House gift rules.

#### **D. VIOLATION OF FORMER HOUSE RULE 45**

The Investigative Subcommittee found that from the time Ann M. Eppard resigned as Chief of Staff from Representative Shuster's congressional office in November 1994, and for a period of at least eighteen (18) consecutive months thereafter, Representative Shuster routinely encouraged, authorized or otherwise accepted the scheduling and advisory services of Ms. Eppard on matters that were official in nature, and which should have been performed by his congressional staff. Commencing immediately following her resignation from Representative Shuster's congressional office, Ms. Eppard had contact with Representative Shuster's scheduler, his new chief of staff and/or other employees of his congressional office on a regular basis for the purpose of providing her recommendations on requests from third parties for official appointments with Representative Shuster. Ms. Eppard, a registered lobbyist and political advisor to Representative Shuster, used this regular and extensive contact with Representative Shuster's congressional office to exercise her influence over his official schedule.

This conduct violated former House Rule 45 (current House Rule 25) under which House offices are generally prohibited from accepting private support for official activities. Former House Rule 45 provided that "no Member may maintain or have maintained for his use an unofficial office account." The

prohibition extends not only to private monetary contributions, but also to in-kind support from private sources. As a general matter, the official activities of each Member and Committee office are to be supported by official monies appropriated for those activities. The Committee on Standards has interpreted former Rule 45 to support its finding that the regular involvement of a volunteer/political advisor in a congressional office who performs tasks properly associated with the official responsibilities of House Members and employees is inappropriate.<sup>37</sup>

The concerns regarding the acceptance of voluntary services of individuals include the fact that at times, quite obviously, an individual offering to perform such services for a Member of Congress may have his or her own agenda. Thus, even with regard to individual participation in established intern or fellowship programs, whose services may be accepted by a House office, the Committee on Standards has cautioned that those individuals "should not be assigned duties that will result in any direct or indirect benefit to the sponsoring organization, other than broadening the individual's knowledge."<sup>38</sup>

Representative Shuster authorized and/or accepted the scheduling and advisory services of Ms. Eppard, a registered lobbyist who was his political adviser and former Chief of Staff, on matters that were official in nature for approximately 18 months after she resigned from his office. In so doing, Representative Shuster permitted Ms. Eppard to influence his official schedule and she did, in fact, influence his official schedule. Representative Shuster was aware that Ms. Eppard was a registered lobbyist with clients in the transportation industry and knew that she could use her influence over his congressional schedule to benefit her business interests.

#### 1. Facts Upon Which Findings Are Based

Following Ms. Eppard's resignation from Representative Shuster's staff in November, 1994, employees in Representative Shuster's congressional office would routinely seek Ms. Eppard's assistance in identifying persons who submitted requests to meet with Representative Shuster and routinely sought her guidance regarding whether the requests of third parties to meet with Representative Shuster should be granted. Ms. Eppard routinely gave such guidance. Ms. Eppard's influence was not limited to advising Representative Shuster's staff regarding which appointments should be scheduled for him personally but in some instances even extended to recommending and/or directing that individual employees from his congressional office attend designated events.

Representative Shuster's former scheduler testified that after Representative Shuster became Chairman of the Committee on Transportation and Infrastructure, it was her practice to process all requests for appointments that came into the office by telephone or in written form by conveying all requests to new Chief of Staff Carol Wood (who succeeded Ms. Eppard) who, in turn, discussed the requests with Representative Shuster. Representative Shuster determined which parties would receive appointments and the folder containing the written requests would be returned to the scheduler. Whenever the congressional office received requests for appointments in Representative Shuster's office, members of the staff routinely sought Ms. Eppard's assistance in identifying persons making the request, explaining why this person might be coming in and what their view on certain issues might be. Employees who remained on Representative Shuster's staff after Ms. Eppard departed testified before the Investigative Subcommittee that they sought her opinion on these matters because, in their view, Ms. Eppard had been there a long time and had a great deal of institutional knowledge. Inquiries were not limited to campaign matters. This practice of seeking Ms. Eppard's input on an almost daily basis continued for approximately 18 months until Timothy Hugo succeeded Carol Wood as Chief of Staff in May, 1996. The practice appears to have diminished after Mr. Hugo commenced his duties as new Chief of Staff.

The Investigative Subcommittee reviewed several hundred scheduling requests obtained from Representative Shuster's congressional office for the period from November, 1994, until at least January, 1998. The documents reflect copious instances where Ms. Eppard provided written comments regarding

whether Representative Shuster and/or his congressional employees should agree to schedule a particular meeting or event with third parties.

During her appearance before the Investigative Subcommittee, Committee counsel asked Ms. Eppard to review a sampling of forty-eight of the pages. *Exhibit 41*. Thirty-eight of these pages were requests for appointments with Representative Shuster that reflected handwritten notations that the Subcommittee believed to be the handwriting of Ms. Eppard. Ms. Eppard positively identified her handwriting on thirty-seven of the thirty-eight pages and stated that "I am amazed I wrote so many things."<sup>39</sup>

Ms. Eppard's involvement in Representative Shuster's official appointment calendar eventually became so extensive that the congressional staff developed a code of simply marking documents with the initials "AME" (Ann M. Eppard) before submitting the documents to Representative Shuster to reflect that Ms. Eppard had reviewed a request and had recommended that Representative Shuster schedule an appointment with the party submitting the request. *Exhibit 42*. Representative Shuster's congressional staff routinely faxed the written requests to Ms. Eppard at Ann Eppard Associates for her review and comments or Ms. Eppard would stop by the congressional office to review them there. Employees from Representative Shuster's congressional office testified that during the first year after she left Representative Shuster's office, Ms. Eppard would come by Representative Shuster's office on an almost daily basis.

Representative Shuster was aware that his staff was seeking Ms. Eppard's views on the advisability of granting appointment requests to third parties who submitted them to his office. On occasion, Representative Shuster would use a heavy felt pen to circle Ms. Eppard's written recommendations to signal to his congressional staff that he agreed to schedule the requested appointment in accordance with Ms. Eppard's recommendations.<sup>40</sup>

The former scheduler testified that "[Representative Shuster] would look at these documents I had written the dates and times on, and when Ann's opinion had been requested, she would put a note on it, and he would look at who was requesting the appointment and circle it and then look at the opinion. If he agreed, he would circle her advice, and if not, he would either put a note on of his own on there or would mark a new one on the request."<sup>41</sup>

From November, 1994, until at least June 12, 1996, several written appointment requests bearing Ms. Eppard's handwriting were submitted to Representative Shuster's congressional office by Ms. Eppard on behalf of her clients and/or were submitted directly by Ms. Eppard's clients to the congressional office and subsequently reviewed by Ms. Eppard for her comments. Much of this activity took place during the one-year period during which Ms. Eppard was subject to the post-employment restrictions designed to limit her contact with Representative Shuster. Ms. Eppard's authority in this regard was so extensive that in some instances, Representative Shuster's congressional scheduler was authorized to follow the direct instructions she received from Ms. Eppard in putting appointments on Representative Shuster's calendar.

In some instances, these appointments were for campaign matters, but in other instances, Representative Shuster's congressional employees acknowledged that the events were exclusively official. The employees attempted to justify this practice by testifying that since any request for an appointment to see Representative Shuster would have political implications, it was appropriate to seek Ms. Eppard's views because she was an employee of the Bud Shuster for Congress Committee.

Representative Shuster's scheduler estimated during her appearance before the Investigative Subcommittee that during the first year that Representative Shuster served as Chairman of the Committee on Transportation and Infrastructure, approximately 25 percent of the persons submitting requests received appointments to see him. Among the records obtained by the Investigative Subcommittee from Representative Shuster's office, in the instances where Ms. Eppard's advice was solicited by Representative Shuster's office for official appointments and the appointment request reflects Ms. Eppard's written recommendation, it appears that Ms. Eppard's advice was followed by Representative Shuster's office on the majority of all such occasions.

## 2. Findings of Investigative Subcommittee

Members of the House are ultimately responsible for ensuring that their offices function in accordance with applicable standards. In this regard, Members must not only ensure that their offices comply with appropriate standards but also take account of the manner in which their actions may be perceived.

The Investigative Subcommittee recognizes that a limited amount of involvement by a departing congressional employee with his or her former employing office following resignation might be reasonable under certain circumstances to ensure a smooth transition before his or her successor becomes familiar with job responsibilities. The Investigative Subcommittee further recognizes that Ms. Eppard served as Representative Shuster's Chief of Staff for approximately 21 years and that she was succeeded as Chief of Staff by an individual who had far more limited experience in managing a congressional office. The Investigative Subcommittee acknowledges that once Representative Shuster commenced duties as Chairman of the Committee on Transportation and Infrastructure at the beginning of the 104<sup>th</sup> Congress, demands for his attention increased dramatically, and necessarily increased the volume of work in his personal office to manage appointments, correspondence and telephone calls. Ms. Eppard herself described the atmosphere in Representative Shuster's office during this period as one of "turmoil."<sup>42</sup>

In 1995, the Committee on Standards examined the propriety of former Speaker Newt Gingrich's practice of permitting Joseph Gaylord, his political adviser, to have a regular, routine presence in the Speaker's congressional office during the beginning of the 104<sup>th</sup> Congress. In its report, the Committee stated that "Mr. Gaylord's alleged activities included attending leadership meetings, interviewing prospective employees, and making salary recommendations in the transition period during which Representative Gingrich was reorganizing his office to assume the responsibility of Speaker. The Committee found that the utilization of Mr. Gaylord to interview employees during the transaction, a task that is properly associated with the official responsibilities of House Members and employees, is inappropriate. The routine presence of Mr. Gaylord in congressional offices creates the appearance of the improper commingling of political and official resources and is inappropriate. The Committee concluded that these actions taken together violate House Rule 45." Inquiry Into Various Complaints Filed Against Representative Newt Gingrich, H. REP. NO. 104-401, 104<sup>th</sup> Cong., 1<sup>st</sup> Sess. (1995) at 4.

The Committee on Standards issued a *Dear Colleague* letter dated June 29, 1990 (reprinted in the *House Ethics Manual* at 206 – 210) in which it explained that the only circumstances under which House Rule 45 has been construed to permit a House office to accept the temporary services of an outside party has been in the case of a volunteer. A volunteer may provide services in a congressional office provided the office "has a clearly defined program" in which "the voluntary service is of significant educational benefit to the participant" and "does not supplant the normal and regular duties of paid employees." Obviously, this exception does not apply to these circumstances as Ms. Eppard activities in Representative Shuster's office clearly had neither the purpose nor the effect of conferring any educational benefit upon her.

The Investigative Subcommittee notes that although Ms. Eppard's recommendations were not followed on each and every occasion, her advice was solicited by Representative Shuster's office on the majority of the appointment requests that the Investigative Subcommittee examined for 1995 and 1996. The Investigative Subcommittee further notes that many of Ms. Eppard's clients obtained appointments to meet with Representative Shuster shortly after he became Chairman of the Committee on Transportation and Infrastructure and thereafter.

Ms. Eppard rendered extensive assistance to Representative Shuster's congressional staff on a regular and routine basis that supplanted the duties normally performed by congressional employees. Her services were plainly not consistent with the provisions of Rule 45 which specify that services performed by a volunteer in a congressional office should be limited in duration and part of a clearly defined educational program. Ms. Eppard's continuous and extensive participation in the day-to-day management of Representative

Shuster's congressional schedule long after the date of her resignation, however, could not be described as limited or incidental assistance required to facilitate a "transition." Moreover, Ms. Eppard's regular and routine presence in the official activities of the congressional office was particularly imprudent due to her role as political adviser to Representative Shuster, as this created the appearance of the improper commingling of political and official resources. This imprudence was further compounded by the fact that the restrictions of 18 U.S.C. § 207 limited – or should have limited – Ms. Eppard's contact with Representative Shuster personally and all employees in his congressional office during the twelve-month period immediately following her resignation.

Based on the foregoing, the Investigative Subcommittee has substantial reason to believe that commencing November 9, 1994, and for approximately 18 consecutive months thereafter, Representative Shuster routinely encouraged, authorized or otherwise accepted the scheduling and advisory services of Ann M. Eppard for matters that were exclusively official in nature and all of which should have been performed by his congressional staff, in violation of then-Rule 45 of the House of Representatives.

#### **E. IMPROPER USE OF CONGRESSIONAL STAFF FOR CAMPAIGN PURPOSES**

The Investigative Subcommittee found from at least 1993 to at least December 31, 1998, Representative Shuster failed to establish any fixed policy, written or otherwise, or to maintain any records to reflect the number of days his congressional employees were away from the congressional office for vacation, sick leave or to perform services for the Bud Shuster for Congress Committee ("BSCC"). The testimony of several current and former employees from Representative Shuster's congressional office revealed that there was an inconsistent understanding among his staff of the office policy regarding employee leave. Several congressional employees from Representative Shuster's office testified that they frequently performed services for the BSCC during regular office hours and did not use vacation time or take leave without pay for the time that they devoted to campaign work. As a result, these employees were paid their full congressional salaries for time that was actually spent working for the BSCC.

Prior to September 1, 1995, statutory law and rules of the Committee on House Administration provided for a Clerk Hire Allowance "for the employment of staff in the Member's Washington, D.C. congressional office and district office(s)." U.S. House of Representatives Congressional Handbook (Sept. 1985) and 2 U.S.C. §§ 56 and 122a. Effective September 1, 1995, the rules were modified to provide that "[t]here is established for the House of Representatives a single allowance, to be known as the 'Members' Representational Allowance,' which shall be available to support the conduct of the official and representational duties of a Member of the House of Representatives with respect to the district from which the Member is elected." Members' Congressional Handbook, 104<sup>th</sup> Cong. (1995); 2 U.S.C. § 57b; 31 U.S.C. § 1301. The Committee on House Administration has long specified that the official allowances may not be used to defray any personal, political, or campaign-related expenses, nor may a Member directly benefit from the expenditure of these funds. U.S. House Of Representatives Congressional Handbook 2.IA (Sept. 1985)

Section 1301 of Title 31, United States Code, provides that appropriations shall only be used for the official purposes for which they were made.

The House Ethics Manual provides that House employees must fulfill their official congressional duties and that those duties cannot be neglected to pursue campaign activities. The House Ethics Manual further advises that House employees may engage in campaign activities in their free time after official duties have been completed, while on annual leave or on leave-without-pay status, adding that "[i]n any case, the employee should keep careful records documenting that campaign work was not done on official time." House Ethics Manual (April 1992) at 200-201.

The importance of the fact that the salary of a House employee is to be used exclusively for the performance of official House duties, and not for the performance of campaign activities, cannot be

overstated. As the U.S. District Court for the District of Columbia has observed, it is a "basic principle that government funds should not be spent to help incumbents gain reelection."<sup>43</sup> In this regard, a former House Member pleaded guilty in 1979 to a charge of mail fraud and income tax evasion. That case centered on claims that employees on the Member's congressional payroll were paid not for the performance of official duties, but instead for staffing and operating various campaign headquarters in the Member's re-election campaign.<sup>44</sup> In a similar vein, a former House employee pleaded guilty in 1993 to a charge of theft of government property. The government property at issue were the salary and expenses paid to him by the House during time when, despite his claim that he was conducting official business, he was in fact performing services for the campaign.<sup>45</sup>

#### 1. Lack of Uniform Leave Policy

Representative Shuster's congressional office did not have any established written or oral policy regarding employee leave from at least 1993 until at least December 31, 1998. Many employees frequently did "volunteer" work for the Bud Shuster for Congress Committee ("BSCC") during regular congressional office hours. In all such instances, congressional employees received their full congressional salaries while they were working for the BSCC. In some instances, employees simultaneously received payments characterized as "bonuses" from the BSCC.<sup>46</sup>

All such congressional employees who performed campaign services during regular business hours failed to take annual leave or a leave of absence without pay for the intervals during which they were performing services for the BSCC. Rather, all such employees took "administrative leave" during which they received their full congressional salaries. There was no limit to the amount of "administrative leave" that could be taken from the congressional office. "Administrative leave" was used primarily to designate time that each employee was out of the congressional office to perform services for the BSCC. In fact, one employee testified that the term "administrative leave" was used exclusively to denote time spent away from the congressional office to perform campaign services. Even so, no verifiable records were maintained to reflect the amount of administrative leave that was taken by congressional employees working for the BSCC. Representative Shuster put no safeguards in place to ensure that the time his employees spent out of the congressional office was properly recorded so that each employee could either count time spent out of the congressional office performing services for the BSCC as vacation time or make up such time by working at the congressional office at alternate times, such as evenings or weekends.

The Investigative Subcommittee heard the testimony of several current and former employees from Representative Shuster's personal congressional office, all of whom testified that the office did not have any established written or oral standards rules regarding office vacation policy. All of the employees who testified before the Subcommittee stated that they had done "volunteer" work for the Bud Shuster for Congress Committee ("BSCC") during regular congressional office hours. In all such instances, congressional employees received their full congressional salaries while they were doing work for the BSCC.

One employee testified that employees in the congressional office were not required to keep written records of their leave but were instructed to check with the office manager to ensure that the office would be adequately staffed during intervals when they planned to be out of the office for any purpose. The employee testified that when he was hired, he learned that each employee would have four weeks of paid vacation each year, comprised of three-weeks of individual vacation time plus the week between Christmas and New Year's. He was of the impression that all employees received an identical number of vacation days each year regardless of seniority.

In contrast, another employee testified that the office imposed no limit on the number of days an employee could take each year for administrative leave, sick leave or annual leave, and that the office had no formal vacation policy. She explained to the Subcommittee that "[y]ou took time if you needed it. If you had

someone was ill, you could take as much time as you needed to do that. If you wanted to do volunteer work on the campaign, that was fine with [Representative Shuster] as long as your work in the office was done. If he wasn't getting complaints from constituents -- he has a pretty high standard of service for any kind of case work -- as long as that was taken care of, he didn't care how many hours you sat at your desk."<sup>47</sup> Employees were expected to "make up" official time expended for campaign work. The leave policy was not written.

The testimony of a third employee provided yet another interpretation of the congressional office's leave policy. This employee testified that there was no set policy for sick leave or administrative leave in the congressional office although employees were given two weeks of annual leave, plus a week at Christmas. If an employee wanted to take more annual leave, it was liberally granted.

This employee defined "administrative leave" as any leave with pay. Employees were expected to take administrative leave when they worked for the campaign, meaning that they received their federal salaries even if working for the BSCC. None of the employees who appeared before the Investigative Subcommittee took annual leave or leave without pay to work for the BSCC.

One congressional employee from Representative Shuster's Washington, D.C., office worked for the BSCC for three consecutive weeks in Representative Shuster's congressional district, devoted approximately 90% of her time during this three-week interval to campaign activity and received her full congressional salary during the entire three-week interval. During this time period, the employee was a case worker in Representative Shuster's Washington office.

Q: Let me just ask, I want to get a sense of things. As best as you can recollect, what would have been -- either here or in Pennsylvania -- the most amount of consecutive days that you would have been out of the office for the purpose of making campaign calls or helping the campaign?

A: Weekdays, probably the longest I was out of the office -- this was the first fund-raiser I did in Pennsylvania. I was spending, living basically in Altoona for about 3 weeks.

Q: When was that?

A: 1994 -- 1993-94, somewhere in there.

Q: Approximate period, month, if you recall?

A: There would have been only one Altoona fund-raiser. If I could add to that.

Q: Please do.

A: While I was up there during the week, I would come back here on the weekend and I would do my case work and I would return my phone calls and make sure that my work in my official capacity was maintained.

Q: So you would come back every weekend and do your work?

A: Yes. Just because we have campaign miles being refunded or the campaign paying for a room doesn't necessarily mean that the entire day was consumed with campaign activity. It just means that there was a campaign activity that touched something in that day. So rather than have the appearance that official money, taxpayer money was paying for [me] to run around in the district on a campaign day, the campaign refunded the miles.

Q: During that specific 3-week period that you recall, did you go to the Shuster congressional office on a daily basis?

A: I doubt I was there daily, but I probably would have been in there at some point once or twice in the week to return phone calls.

Q: So during the regular weekday hours of that particular case, would it be fair to say that you spent more than -- just picking -- 75 percent of your time doing campaign work?

A: Yes.

Q: Possibly even 90 percent of your time or most of your time?

A: During the weekdays, yes. Probably closer to 90 than 75.<sup>48</sup>

An employee who was employed full-time in a district office testified that one of his primary duties for Representative Shuster was to drive Representative Shuster to official and political events. He frequently drove Representative Shuster to campaign events in the district during hours when the district office was open. He never kept any records of time he spent out of the office for campaign work nor was he ever asked to keep any records.

The employee was transferred to Washington in 1996. He submitted vouchers to the BSCC for mileage associated with a number of trips in and around Washington (as often as once or twice a week.) He testified that he was told that he could get reimbursed by the campaign for driving Representative Shuster to evening events in the Washington area, although it was not his practice to ask Representative Shuster whether he was attending an official or campaign event. He often waited outside in his vehicle with the motor idling while Representative Shuster ate dinner so he did not know the nature of many of the events, but he always billed his mileage to the campaign.

Another employee testified that she has done campaign work for Representative Shuster out of Ms. Eppard's Alexandria office "lots of times."<sup>49</sup> She assisted once or twice a year with Representative Shuster's large Washington fundraisers and went to Ms. Eppard's office to make telephone calls. She did not go there on the weekends but did campaign work at Ms. Eppard's office during the week during regular business hours. She recorded her absence from the congressional office as "administrative leave."

While she was employed in Representative Shuster's personal office, this employee had responsibility for maintaining vacation leave for the entire office staff but she acknowledged that records were kept "not very well....At the time, I would make a note on one of the normal desk calendars, the little flip calendars, just make a note if someone was sick or vacation or taking a day to do some volunteer work on the campaign, I would make a note that it was administrative leave."<sup>50</sup> She described "administrative leave" as "just a notation that the person, the staff person was out of the office doing campaign work" and acknowledged that "administrative leave" was synonymous with "campaign work."<sup>51</sup>

An employee who succeeded Ms. Eppard as Chief of Staff in Representative Shuster's office testified that the office scheduler had responsibility in the office for keeping records of congressional employees' sick leave, annual leave and administrative leave. The employee testified that during her 18-month tenure as Chief of Staff, neither she nor any other person ever reviewed the records that the scheduler was supposed to maintain or otherwise confirmed that proper records were maintained. Thus, the flip calendars were never reviewed by the Chief of Staff or Representative Shuster, nor was the employee who recorded leave for all staff members ever asked to summarize or otherwise compile the data recorded on her personal calendar.

An employee testified that she has received a few payments from Representative Shuster's campaign for her campaign services. These include a check for \$1200 received in September, 1996. She could not recall to which campaign event this check related. There was no precise means of setting her fee for campaign services. Rather, she testified that "[w]hile working on an event while making phone calls, Ann [Eppard] would say 'we want to give you some money for all your time that you spent working on this. Submit a

voucher for \$1,000 or \$1,200 and we will draw up a check.' But it was never a fee or hourly rate or anything like that."<sup>52</sup> She testified that if this were an event in Washington, she probably would spend five to ten full business days making phone calls. The employee never took leave without pay from Representative Shuster's congressional office.

A review of e-mail generated by the employee on her computer in Representative Shuster's congressional office indicated that she worked in Ms. Eppard's office all day on Wednesday, March 18, 1998 and Tuesday, April 7, 1998. An e-mail that she sent to a campaign consultant on October 30, 1997, from her congressional office read "I will be up in Pennsylvania until November 11 ...[eleven days]" She testified that during this period, she was probably in Representative Shuster's congressional district for a November 10 fundraiser in Altoona but could not specifically recall. The employee submitted a request to the BSCC for mileage from October 31 to November 11, 1997 and testified that "[i]t looks like I was driving back and forth between my parents' house while staying in Altoona spending my days making fundraising phone calls."<sup>53</sup>

An employee from Representative Shuster's district office testified that she regularly performed services for the BSCC during hours when the congressional office was open and made up the time in the evening or on weekends. She never used annual leave on occasions when she was working for the BSCC.

The employee's primary work for the BSCC was to organize a fund-raiser at the Ramada Hotel in Altoona every two years. The event raised between \$125,000 and \$150,000 and was attended by approximately 200 people. Many of her vouchers for mileage expenses related to her practice of personally delivering fundraising tickets to individuals who purchased them since the campaign did not ordinarily mail tickets. Rather, the employee and Ms. Eppard typically delivered the tickets during the workday and in the evening. If the tickets were delivered during the congressional work hours, the employee testified that she would take "administrative leave" although she acknowledged that she continued to receive her federal salary even when she was on "administrative leave."

The employee's mileage reimbursement documents reflect that she took 39 trips on weekdays totaling approximately 3200 miles in the fall of 1996 alone. This figure did not include four additional trips (and an additional 400 miles) she took on weekends during this time period. It was the employee's practice to wait in the car while Ms. Eppard went to the door and delivered the tickets, often to BSCC volunteers who lived in rural areas of the district.

Another employee who served as Chief of Staff to Representative Shuster following Ms. Eppard's resignation testified before the Investigative Subcommittee that on numerous occasions when he was traveling with Representative Shuster in his official capacity, the employee would attend out-of-town fundraisers for the BSCC on a voluntary basis. The employee specifically recalled attending BSCC fundraisers during this period in McAllen, Texas, Portland, Oregon, Frederick, Maryland and Provo, Utah. The employee recalled touring several transportation sites with Representative Shuster by helicopter but could not recall whether Ms. Eppard also participated in the helicopter tours.<sup>54</sup>

The employee testified that the employee received a congressional salary while volunteering for the BSCC. If the employee took time off to volunteer for the BSCC, the employee made it up by working long hours at the congressional office. However, the office had no firm policy regarding administrative leave, and it was not the employee's practice to record how much time was spent volunteering for the campaign. When asked by the Investigative Subcommittee how often the employee volunteered for the BSCC, the employee replied, "[A] day or two every now and then" but did not know the exact amount because the employee kept no records while serving as Chief of Staff.<sup>55</sup> The employee did not instruct anyone in the office to keep records although the employee stated that the scheduler may have kept records. The employee testified as follows:

Q: How often did you volunteer for the Bud Shuster for Congress Committee while you were his chief of staff?

A: A day or two every now and then, you know.

Q: You don't know, right, because you didn't keep any records?

A: Yeah.

...

[Counsel]: Why don't you clarify? [The Witness] doesn't know if someone else in the office was keeping records of administrative leave or not, but he didn't personally keep the record.

Q: That was my question. Did you?

A: No; no, sir.

Q: Did you ask or instruct anyone else in the office to do that for you?

A: [The scheduler] may have kept records. Did I tell her to? No, sir.

Q: Did you have a policy?

A: No, Congressman.

Q: Is there a written policy?

A: No, there really wasn't.

Q: Was there a stated or an oral policy?

A: I mean if people wanted to volunteer -- one thing I was very careful, I never asked anybody to volunteer, because I didn't think that was appropriate. If people asked me if they could volunteer, I would say, make sure your work is done. If you want to take a day or so, make sure your work is done, you know; and people worked the weekends or they would stay a few hours at night and do whatever they had to to make up the work. Our office ran pretty efficiently.<sup>56</sup>

## 2. Campaign Work In Congressional Office

Another employee testified that prior to Ms. Eppard's retirement from Representative Shuster's personal office in 1994, the employee and Ms. Eppard performed services for Representative Shuster's campaign in the Rayburn House Office Building over the course of several years. Examples of campaign work performed in Representative Shuster's congressional office included completing FEC expenditure and contribution reports and signing campaign checks. This practice commenced in the 1980's and stopped after Tom Hoyne was retained as Treasurer for the campaign in 1994.

All FEC reports were filed and maintained either in Representative Shuster's congressional office, Ms. Eppard's home or the employee's home. When the employee commenced employment as Representative Shuster's Chief of Staff, congressional employees on Representative Shuster's staff often performed services for the campaign during business hours at Ms. Eppard's office in Alexandria, Virginia. Most of this work involved placement of fundraising telephone calls.

## 3. Findings of Investigative Subcommittee

The Investigative Subcommittee found that Representative Shuster failed to establish a comprehensive and comprehensible policy for his congressional staff to record the annual, sick and administrative leave taken by each employee in his congressional office. Several employees from Representative Shuster's congressional office testified that they had personally performed services for the BSCC during regular business hours when they should have been devoting their attention purely to congressional business. All such employees testified that at no time had any of them taken annual leave or a leave of absence without pay for intervals while they were performing services for the BSCC. Rather, all such employees testified that in many instances they took "administrative leave," though they consistently confirmed that they received congressional salaries at all times while they were on "administrative leave." On some occasions, congressional employees received monetary "bonuses" for "volunteer" work they performed for the BSCC, often in excess of \$1,000. All employees testified that there was no limit to the amount of "administrative leave" that could be taken from the congressional office and that it was used primarily to designate time that each employee was out of the congressional office to perform services for the BSCC.

The Investigative Subcommittee has substantial reason to believe that Representative Shuster's congressional staff engaged routinely in work for the Bud Shuster for Congress Committee ("BSCC") without taking appropriate precautions to ensure that they properly documented the time they were expending out of the congressional office during regular business hours to perform services for the BSCC. The Investigative Subcommittee has substantial reason to believe that as a result of this practice, Representative Shuster's congressional employees routinely received salaries from the House of Representatives on numerous occasions while they were performing services for the BSCC.

The Investigative Subcommittee also found that Representative Shuster's congressional staff performed services for the BSCC in his congressional office. From the mid-1980s to 1994, all of the BSCC FEC reports were filled out in the Rayburn House Office Building and many of them were stored there. The result of this practice is that the congressional employees who were working on campaign reports in the congressional office completed reports that contained the identify of all contributors and the amount of the contributions. The congressional employees kept no records to reflect the amount of time they devoted to completing FEC reports in the congressional office. Although there was no direct evidence that Representative Shuster was aware that this activity was taking place, the Investigative Subcommittee determined that he was responsible for permitting this practice to occur for such a protracted period of time.

Based on the foregoing, the Investigative Subcommittee concluded that while under the supervision and control of Representative Shuster as their employing Member, employees in his congressional office worked for the BSCC to the apparent detriment of the time they were required to spend in the congressional office and performed services for the BSCC in his congressional office.

**HIGH NUMBER AND DOLLAR AMOUNT OF CAMPAIGN EXPENDITURES COMBINED WITH INADEQUATE RECORD-KEEPING PRACTICES CREATED APPEARANCE THAT EXPENDITURES MAY NOT HAVE BEEN ATTRIBUTABLE TO BONA FIDE CAMPAIGN OR POLITICAL PURPOSES.**

The Investigative Subcommittee found that the number and dollar amount of expenditures by the Bud Shuster for Congress Committee ("BSCC") for meals designated as "political meetings" and for transportation on chartered airplane flights, as reflected in Federal Election Commission reports filed by the BSCC between 1993 and 1998, combined with the record-keeping practices followed by the BSCC, were inadequate to verify that these expenditures were made for legitimate campaign purposes. The BSCC did not maintain documentation to support that the disbursements for political meetings and transportation were for legitimate and verifiable campaign expenditures and/or that they were attributable to bona fide campaign or political purposes. As such, the practices observed by the BSCC created the appearance that certain expenditures may not have been attributable to bona fide campaign or political purposes.

Between January 1993 and December 1998, Representative Shuster and/or representatives of the BSCC used campaign funds to pay for disbursements, described in Attachment A as "political meetings" and/or "political meetings and meals" and related terms, on more than six hundred seventy-five (675) occasions totaling approximately \$300,000, as described in greater detail in Attachment A to this Report.<sup>57</sup>

During this period Representative Shuster and/or representatives of the BSCC also used approximately \$400,000 in campaign funds to pay for private chartered airplane flights for transportation, as described in greater detail in Attachment B to this Report. Documents obtained by the Investigative Subcommittee include invoices from the Bun Air Corporation in Bedford, Pennsylvania. These invoices list the number and route of Bun Air chartered flights paid for by the BSCC between approximately January 1996 and April 1998 and reveal that during this time period, the BSCC paid for several hundred privately chartered Bun Air flights. The BSCC was unable to provide the Investigative Subcommittee with verification of the individuals who took these numerous flights and/or the campaign or political purpose for these flights.

At all times during the events described in this Report and relevant attachments, former House Rule 43, Clause 6 (current House Rule 24, Clause 6), provided, in part, that "...[a] Member shall convert no campaign funds to personal use in excess of reimbursement for legitimate and verifiable campaign expenditures and shall expend no funds from his campaign account not attributable to bona fide campaign or political purposes."

Historically, the Committee on Standards has interpreted these provisions strictly, expressing the concern that to do otherwise "would open the door to a potentially wide range of abuse and could result in situations where campaign moneys [sic] were expended for the personal enjoyment, entertainment, or economic well-being of an individual without any clear nexus that the funds so expended achieved any political benefit...."<sup>58</sup>

The rule by its terms requires that campaign funds be used for purposes that are both "legitimate" and "verifiable." Each Member should ensure that his or her campaign committee maintain records that demonstrate that all expenditures are made for "bona fide campaign or political purposes." Compliance with this requirement is particularly important with regard to expenditures for purposes that, depending on the circumstances, could raise questions regarding personal use, such as expenditures for meals or travel.

The House Ethics Manual states that "[a]s long as Members do not convert campaign funds to personal or official uses, they generally have wide discretion as to what constitutes a bona fide political purpose."<sup>59</sup> The Investigative Subcommittee did not find substantial reason to believe that Representative Shuster converted campaign funds to personal use. It did find substantial reason to believe that the record-keeping practices observed by the BSCC were inadequate to verify the legitimate campaign purposes of these expenditures. These inadequate record-keeping practices created the appearance that certain expenditures may not have been attributable to bona fide campaign or political purposes.

#### 1. 1993-1994 Campaign

Representative Shuster was re-elected to the House of Representatives on November 3, 1992. Records indicate that Representative Shuster had not faced a primary or general election opponent since 1984. In fact, Representative Shuster was the nominee of both the Republican and Democratic parties in his district between 1986 and 1992.

Representative Shuster was re-elected to the House of Representatives on November 8, 1994. According to the records of the Clerk of the House, Representative Shuster received 146,688 votes and write-in candidates received 515 votes. During the 1994 campaign he was not opposed in the primary or general election. Representative Shuster was again the nominee of both the Republican and Democratic parties in 1994.

Federal Election Commission ("FEC") reports for the calendar year 1993 indicate that during 1993, the BSCC raised \$367,705.44 in contributions and had \$351,687.25 in total operating expenses. FEC reports filed by the BSCC for calendar year 1994 indicate that the campaign received \$303,259.50 in net contributions and had expenditures of \$370,163.42. On December 31, 1994, the BSCC had a remaining balance of \$1,468.16.

Despite the absence of an opponent between 1993 and 1994, the BSCC spent approximately \$156,668 on approximately 114 separate expenses described on FEC filings primarily as "political meetings," or "political meetings and meals." This figure resulted in an average of approximately \$215 a day for political meetings. Neither Representative Shuster, the BSCC nor Ms. Eppard possessed any documentation that reflect who attended the meetings or the purpose for the meetings.

Between 1993 and 1994, the BSCC also spent a total of \$98,416 on private chartered airline flights through the Bun Air Corporation. The BSCC also spent \$5084 on expenses from two other charter flight companies during this time period. Neither Representative Shuster, the BSCC nor Ms. Eppard possessed any documents to confirm that these expenses were legitimate or verifiable campaign expenditures.

## 2. 1995-1996 Campaign

Representative Shuster was re-elected to the House of Representatives on November 5, 1996. Records indicate Representative Shuster did not face a primary opponent. He defeated his opponent in the general election with a margin of approximately 74% to 26%. The BSCC received approximately \$1,213,304 in contributions while Representative Shuster's opponent received approximately \$113,294.<sup>60</sup>

Federal Election Commission ("FEC") reports for the calendar year 1995 indicate that during 1995, the Bud Shuster for Congress Committee ("BSCC") received net contributions of \$655,459.98 and incurred \$355,134.78 in net operating expenses. BSCC FEC reports for calendar year 1996 indicate that the campaign received \$532,309.90 in net contributions and had net expenditures of \$756,222.95. On December 31, 1996, the BSCC had a remaining balance of \$7,520.67.

Between 1995 and 1996 the BSCC spent approximately \$82,520 on approximately 305 listed expenses described as "political meetings." This figure averaged approximately \$113 each day for political meetings. Although the BSCC produced receipts to the Investigative Subcommittee to verify that these expenses were incurred, the documentation neither described the identities or number of people attending the political meetings or the specific purpose of these meetings.

Between 1995 and 1996, the BSCC also spent a total of approximately \$163,471 on private chartered airline flights through the Bun Air Corporation. The BSCC possessed records indicating the date and passengers for many of these flights but no documents justifying the campaign or political purpose for any of these flights.

## 3. 1997-1998 Campaign

On November 3, 1998, Representative Shuster was re-elected to the U.S. House of Representatives. In the May 1998 primary, he defeated his opponent by a margin of 81% to 19%. Representative Shuster was unopposed in the general election in November. According to records of the Clerk of the House of Representatives, Representative Shuster received 125,409 votes in contrast to 618 write-in votes in the general election.

Between 1997 and 1998, the BSCC spent approximately \$66,075 on approximately 257 entries described primarily as "political meetings." This figure averaged approximately \$91 a day for political meetings. Although the BSCC produced receipts to the Investigative Subcommittee to verify that expenditures were made, the documentation neither described the identities or number of people attending the political meetings nor the specific purpose of these meetings.

Between 1997 and 1998, the BSCC also spent a total of approximately \$128,987 on private chartered airplane flights through the Bun Air Corporation. The BSCC produced to the Investigative Subcommittee records reflecting the date and passengers for many of these flights but had no documentation to reflect the campaign or political purpose for any of these chartered flights.

#### 4. Examples Of Types of Expenditures That The Subcommittee Questioned

Records obtained from Bun Air Corporation indicate that between January 1993 and December 1998, Representative Shuster, Ms. Eppard, and members of Representative Shuster's family flew on Bun Air chartered flights on hundreds of occasions and billed the flights to the BSCC. Representative Shuster displayed a pattern of using private Bun Air chartered flights for travel to his district on holidays and weekends during which no verifiable BSCC activities were reflected on his schedule.

Evidence indicates that on Wednesday, November 22, 1995, the day before Thanksgiving, Representative Shuster flew on a private Bun Air chartered flight from Washington National airport to Bedford, Pennsylvania. The cost of this flight was \$746.59. The Investigative Subcommittee determined that Bedford Airport is located approximately seven miles from Representative Shuster's home in Everett, Pennsylvania. A review of Representative Shuster's office and personal calendars does not reflect that any BSCC events, or any other events of a political nature, were scheduled for the Thanksgiving weekend.

Additional evidence indicates that on Thursday, December 19, 1996, Representative Shuster flew on a private chartered Bun Air flight from Washington National Airport to Bedford, Pennsylvania, near his personal residence. The cost of this flight was \$796.51. A review of Representative Shuster's office and personal calendars does not reflect that any BSCC events, or any other events of a political nature, were scheduled for this weekend.

Evidence indicates that on December 24, 1996, Representative Shuster flew on a private chartered Bun Air flight from Washington National Airport to Bedford, Pennsylvania, at the expense of the BSCC. The Bun Air invoice for this flight indicated that the price of this flight was \$780.01. The Investigative Subcommittee reviewed credit card records obtained from Representative Shuster which indicate that Representative Shuster stayed at the Marriott Hotel at BWI Airport in Baltimore, Maryland on December 25, 1996, prior to leaving for a trip to Barbados. The Investigative Subcommittee reviewed Representative Shuster's personal and office calendars for December 24, 1996 and December 25, 1996. The records do not reflect any BSCC events, or any other events of a political nature, scheduled for those dates. Records obtained from the BSCC by the Subcommittee indicate that Ms. Eppard approved payment of this flight for BSCC purposes.

On October 15, 1998, the BSCC filed a Report of Receipts and Disbursements with the FEC. The report lists a disbursement to Ann Eppard Associates, Ltd. for \$500 dated August 25, 1998. Campaign records indicate that on August 25, 1998 the campaign wrote a \$500 check to Ann Eppard Associates, Ltd. for invoice #981114. *Exhibit 43.*<sup>61</sup> Ms. Eppard submitted this invoice to BSCC treasurer, Thomas Hoyne on August 20, 1998. The invoice stated it was for \$500 for "Reimbursement for expenses." Attached to this invoice was a photocopy of an American Express charge for the Ann Eppard Associates Ltd. corporate card. The charge listed a \$500 expense for food and beverages from the Allegro Ristorante in Altoona, Pennsylvania. The date on the charge was

Christmas Eve, December 24, 1997. The photocopy of the charge included the handwritten notation indicating that it was to be reimbursed by BSCC. The Investigative Subcommittee noted that absent access to the underlying receipts, scrutiny of the disbursement recorded on the FEC report would only reveal that a BSCC check was written on August 25, 1998 but would not reveal that the underlying food and beverage expense for a dinner on Christmas Eve, 1997.

The Investigative Subcommittee noted that a number of charges for meals labeled as "political meetings" may have been meals at restaurants in the Washington, D.C., area attended only by Representative Shuster and Ms. Eppard. The Investigative Subcommittee questioned the lack of documentation reflecting the campaign purpose of these expenditures. For example, at one stage during her appearance before the Investigative Subcommittee, Ms. Eppard was asked:

Q: Ms. Eppard, I am curious. There were a lot of campaign dinners at the Capitol Grill. A lot of them didn't appear to be entertaining anybody else, you and Mr. Shuster. Was there any thought given to the fact that that is the most expensive place in town practically? And there were a lot of them. Did you ever discuss whether this was good use of campaign funds? Yes, you talked about the campaign, but you talked about it at a place that most of us can't afford to go. It is considered I think in town as a place where out-of-towners with an expense account come and go to. Could you cast any light on that at all?

A: It was close to the Hill if he had to catch votes.

Q: Just a place Mr. Shuster enjoyed?

A: Yes. They are pretty good about making sure you can have a table relatively private and have a conversation and I could get things done with him.

Q: So the subject of the cost to the campaign never came up really?

A: Are you saying that there were a lot of where it was just he and me --.

Q: The two of you.

Q: It appears that way but I may be wrong about that, too.

A: I think there are some, but I also think there were other people.

Q: Other people there. That was a place that he liked to entertain?

A: It is a place where he doesn't get in trouble with food. He likes the same -- there is not cheese and crackers on the table and not a whole bunch of shrimp and that kind of stuff. He watches his weight really carefully.<sup>62</sup>

Mr. Hoyne testified before the Investigative Subcommittee that at the time this expense was incurred and billed to the BSCC, Ms. Eppard was the Assistant Treasurer for the BSCC. He testified that he did not make any inquiry into charges approved by Ms. Eppard. It was not his practice to ever require Ms. Eppard to make any justification other than attaching a receipt to confirm that a charge was made. For example, he did not inquire why Ms. Eppard waited over eight months to request reimbursement for the December 24, 1997, expenditure. Mr. Hoyne testified that Ms. Eppard had been the Assistant Treasurer when he became Treasurer in the fall of 1994 and she remains in that position to date. Mr. Hoyne stated that during 1995 and 1996, Ms. Eppard signed the FEC reports and handled the verification of all campaign expenses alone. It was not Mr. Hoyne's custom to question Ms. Eppard's practices. Beginning in late 1996, after a complaint was filed with the Committee on Standards of Official Conduct against Representative Shuster, Mr. Hoyne began signing FEC reports filed by the BSCC but Ms. Eppard had the continued responsibility of verifying all political expenses without oversight by Mr. Hoyne. Mr. Hoyne testified that the entire time he has

been Treasurer for the BSCC, he had never required Ms. Eppard to justify an expense other than requiring a receipt to confirm that the expenditure was made.

The Investigative Subcommittee found it curious that an accountant of Mr. Hoyne's experience did not require parties affiliated with the BSCC to keep more careful documentation as demonstrated through the following line of questioning during his appearance:

Q: Mr. Hoyne, I would like to just very briefly take advantage of your professional experience. I assume you keep the books, prepare the returns, submit them to the IRS for a number of small businesses -- and maybe large businesses, I don't know -- you mostly work with individuals?

A: No, I mostly work with corporations, companies; small companies, corporations.

Q: In your experience, if a client brought you business expenses as we have talked about today, hotel bills, gift shops, travel expenses like we have today where clearly the mileage is not correct, what would be your advice to that client if they're going to have to face the IRS and justify this as business expenses?

A: If -- first you would have to assume that I saw all those detailed individual items for a client. Usually you get a general ledger that has a summary in it and it has hotel bills for the whole year, travel, whatever. If our office looked down through those and the implication was that they were excessive, we would probably meet with the person and tell them that they better have records to back up and reasons why they incurred these expenditures.

Q: Uh-huh. But that never was your relationship on the campaign? They never expected you or wanted you to be the source of accountability for them on the campaign?

A: That's correct.

Q: You just kept the records and paid the bills.

A: Yes.

Q: And Mrs. Eppard was the one that was the accountable one.

A: That's correct.

Q: Based on the reports that you have read from the FEC about FEC rules, laws, regulations, is it your understanding that it is a violation of the law to use campaign expenditures for personal purposes?

A: Yes.

Q: And based on that -- was that a knowledge that you had going back to January of '95, or early on in the process when you agreed to take over the responsibilities of being treasurer?

A: Early on in the process.

Q: Based on that understanding of the law, did you not ever have any questions? Did you ever have any concerns that some of these requests for reimbursements might have been personal use rather than campaign related?

A: When they were on the credit card, as we saw where they are all individually marked, no.

Q: At no point you felt was there any concern, not even a concern on your part, not even a question? Did you ever have any questions?

A: No.

Q: You accepted everything.

A: Yes, I did.<sup>63</sup>

During her appearance before the Investigative Subcommittee, Ms. Eppard testified that Representative Shuster played no role in determining the propriety of campaign expenditures. She testified as follows:

A [B]asically [I] don't talk to the Congressman about any of our campaign-related expenses.

...

Q Ms. Eppard, you stated that it was your policy not to get Mr. Shuster involved in campaign payments and you did that on your own. Why was that?

A: When we came in in 1973, we were told that one of the things that could get a congressman in trouble was to get too close to the money. Congressman Shuster has never asked for a dollar for his campaign. He basically shows up -- if he reads in the newspapers about an expense, that's the first time he has seen it. I don't let him pre-see the FEC reports...

Q: So it was his policy that he would delegate these issues to you?

A: Right.

Q: And you felt, according to that policy, you did not have to keep him informed of the specific payments?

A: No.

Q: Thank you.<sup>64</sup>

After it determined that Ms. Eppard appeared to exercise broad authority to ascertain the propriety of campaign expenditures, the Investigative Subcommittee endeavored to ascertain further what steps, if any, she took to ensure that her actions in this regard were proper. Ms. Eppard explained her actions during the following line of questions:

Q: Just a general question, when you -- Mr. Shuster was elected for the first time in 1973; is that correct?

A: He was sworn in in '73, elected in '72.

Q: In '72. My recollection of the Capitol, I mean things were done very differently in the early seventies. I recall that both the Republican and Democratic National Campaign Committees were actually located in the Rayburn Building and the way campaigns were done were very different then than today, the campaign finance measures that were put into place subsequent to Watergate changed things. Now what did you do as his chief of staff to update, to apprise yourself of the changes in the laws and to change and update the relationship between his campaign and the congressional office as the world changed from the early seventies to today?

A: Well, ... we basically tried to read as much as possible and to see what was

happening or not happening and then also there are aides association or there was, I don't know if there still is, association meeting, Pennsylvania delegation aides, we get together, and as you would find there was one more thing you weren't allowed to do or whatever.

Q: Okay. Thank you. I have no other questions.<sup>65</sup>

### 5. Findings of Investigative Subcommittee

The Investigative Subcommittee found that between January 1, 1993 and December 31, 1998, Representative Shuster used campaign funds for meals and chartered airplane travel without observing adequate record-keeping practices to verify the legitimate campaign purposes of these expenditures.<sup>66</sup>

Several witnesses who appeared before the Investigative Subcommittee observed that Representative Shuster's practices of spending campaign funds were both appropriate and effective, pointing out that he was rarely opposed in primary or general elections. During her appearance before the Investigative Subcommittee, for example, Ms. Eppard testified as follows:

Q: ....Considering the large number of events and things, did you not through your campaign and working with Mr. Shuster ever consider a policy that said we really ought to document who is at each dinner and what was discussed so that there would be no question raised about the legality of those expenditures? Did you ever discuss that policy with Mr. Shuster? Did you ever consider saying we really ought to have a receipt just as we would with a business for IRS purposes to justify business meals? We ought to have a receipt and on that receipt it ought to say who was there and what the purpose the dinner was.

A: No. We had a policy that said it had to be legally reported to the FEC.

....

Q: The question is, at what point does it become personal use as opposed to a legitimate political expense? That is the determination that the subcommittee has to make.

A:...[O]ne of the reasons I think we have been successful in fund-raising is because we have established a personal relationship with people to help us do fund-raisers and in a time where people have not or members have had a hard time raising money, Congressman Shuster has had a relatively easy time raising money.

.....

Q: One thing I wanted to ask you along those lines. A lot of campaigns who don't want to be challenged build up a war chest and build up a million dollars, million and a half dollars. It seems like the Shuster campaign raises a lot of money and spends a lot of money and doesn't have a war chest at the end of a cycle. Even if you were not opposed, you would have spent all the money by the end of the cycle instead of building up a war chest. Wouldn't you want instead of going to the Capitol Grill, if you're having dinner with a Congressman who is your best friend, why charge it to the campaign and save that money for the campaign to build up a war chest so that somebody would not challenge you or challenge the Congressman? Isn't it fair to say that at the end of every cycle --.

[Counsel]: At some point I have to ask you if the question can be permitted to be answered before going on to the next one.

Q: All right. That's fine.

A: You want me to answer that?

Q: Yes, please.

A: You may be a different kind of campaign manager than I am. Our campaign management has been very effective for him, but that's a decision that can be made by the committee, and I don't believe that the FEC or that there's an ethics rule that says I have to run my campaign a certain way.<sup>67</sup>

The Investigative Subcommittee readily acknowledges that Representative Shuster has established a record of proven success at the polls. However, the Investigative Subcommittee found that it was improper to expend such a high number and dollar amount of campaign funds without making even the most minimal effort to document or verify that the expenditures were related to legitimate campaign activity, as required by former House Rule 43, Clause 6.

The Investigative Subcommittee applied the following factors in evaluating the conduct of Representative Shuster and/or representatives of the BSCC included in this subsection:

- (a) The volume and quantity of disbursements in reports filed with the FEC by the BSCC between 1993 and 1998, described as "political meetings," "political meetings and meals," or related activity;
- (b) The extremely large amount of money spent by the BSCC on disbursements described as "political meetings," "political meetings and meals," or related activity in reports filed with the FEC between 1993 and 1998;
- (c) The extremely large amount of money spent by the BSCC on disbursements described as "transportation" or related activity for chartered airplanes in reports filed with the FEC between 1993 and 1998;
- (d) The volume and quantity of privately chartered Bun Air Corporation flights paid for by the BSCC between January 1996 and April 1998; and/or
- (e) The failure or inability of the BSCC to provide the Investigative Subcommittee verification identifying the individuals associated with the disbursements and/or the campaign or political purpose of the disbursements.

Based on the foregoing factors, the Investigative Subcommittee found that Representative Shuster's failure to document properly these expenditures, coupled with the high number and dollar amount of these expenditures, created the appearance that certain of the expenditures were not attributable to bona fide campaign or political purposes.

## G. SUMMARY OF FINDINGS

Based on any or all of the five areas described above, the Investigative Subcommittee found that between November 9, 1994 and until at least December, 1998, on any or all of the occasions listed above, Representative Shuster conducted himself in a manner that did not reflect creditably on the House of Representatives, in violation of former Rule 43, Clause 1 of the House of Representatives.

## V. CONDUCT OF THE INQUIRY

### A. FILING OF COMPLAINT

On February 8, 1996, *Roll Call* published an article alleging that Representative Shuster regularly stayed overnight at Ms. Eppard's Alexandria, Virginia, townhouse, in potential violation of House Rules. *Exhibit 44*. That same day, on February 8, 1996, Representative Shuster's congressional office issued a statement

from his family concerning the Roll Call article.<sup>68</sup> The next day, February 9, 1996, The Wall Street Journal published an article summarizing the Roll Call allegations and discussing the lobbying activities of Ms. Eppard before the Committee on Transportation and Infrastructure chaired by Representative Shuster. **Exhibit 45.**

On March 6, 1996, Common Cause requested that the Committee on Standards of Official Conduct open an investigation into the matters cited in the Roll Call and The Wall Street Journal articles. **Exhibit 46.**

On March 7, 1996 and May 10, 1996, Representative Shuster sent letters to the Committee on Standards of Official Conduct concerning his professional and social relationship with Ms. Eppard. **Exhibit 47.** On June 13, 1996, the Committee on Standards of Official Conduct responded to Representative Shuster's letters. **Exhibit 48.**

On September 5, 1996, a complaint was filed with the Committee on Standards of Official Conduct ("the Committee") against Representative Shuster by the Congressional Accountability Project. **Exhibit 49.**<sup>69</sup> The complaint focused on two primary areas, the "complex relationship between Representative Shuster and lobbyist Ann Eppard" and Representative Shuster's "interventions with federal agencies" on behalf of Maurice Lawruk, a business partner of Representative Shuster's sons.<sup>70</sup> Specifically, the complaint alleged that Representative Shuster and Ms. Eppard, his former congressional chief of staff "have developed a complex interconnecting web of legislative, political, financial, and personal ties."<sup>71</sup> The complaint alleged that Ms. Eppard's roles between November 1994 and September 1996 included:

- o Washington fundraiser and assistant treasurer for Representative Shuster's congressional campaign committee.
- o "Top political aide" and political consultant to Representative Shuster's congressional campaign responsible for district affairs.
- o Press aide for Representative Shuster's congressional office.
- o Chairman of the Bud Shuster Portrait Committee.
- o Campaign aide and fundraiser for the congressional campaign of Representative Shuster's son, Robert Shuster.
- o Liaison for special interests wanting Representative Shuster to appear at Washington events.
- o Provider of lodging for Representative Shuster.
- o *De facto* official staff person.<sup>72</sup>

In addition, the "complex web" allegation charged that Representative Shuster "implicitly recommended Eppard to potential lobbying clients."<sup>73</sup> The complaint also noted that the Congressional Accountability Project had sent a letter to the Department of Justice urging an investigation into the charges in the complaint "as well as the appearance that Ann Eppard may have violated the one-year post-employment prohibition against personal staff lobbying their former employer."<sup>74</sup>

The complaint also raised three other issues regarding Representative Shuster's relationship with Ms. Eppard. These issues included:<sup>75</sup>

- o Whether Representative Shuster violated House Gift rules by reportedly staying overnight at Ms. Eppard's Alexandria, Virginia, townhouse.

- o Whether some of Ms. Eppard's clients, including Frito-Lay, Inc, Federal Express Corporation, the Outdoor Advertisers Association of America and Amtrak, may have received significant legislative benefits from Representative Shuster and the Committee on Transportation and Infrastructure that he chaired because of Ms. Eppard's political and personal relationships with Representative Shuster.
- o Whether Representative Shuster and Ms. Eppard violated federal criminal statutes prohibiting the solicitation and acceptance of illegal gratuities.

Finally, the complaint asked the Committee to investigate whether Representative Shuster improperly intervened with two federal agencies on behalf of Maurice Lawruk, who was associated with Representative Shuster's two adult sons, Robert Shuster and William Shuster, in a Pennsylvania Chrysler dealership.<sup>76</sup> In support of all the allegations, the Congressional Accountability project included seventeen attachments to the complaint, consisting primarily of newspaper articles concerning the allegations charged in the complaint.<sup>77</sup> The complaint also requested the appointment of an outside counsel to investigate the charges.<sup>78</sup>

Representative Shuster responded to the charges in a letter from his attorneys filed with the Committee on September 10, 1996. *Exhibit 50*. The letter alleged three procedural deficiencies in the filing of the complaint: (1) the signatures of two Members of Congress on the refusal letters required by House Rule 10, clause 4(e)(2)(B)(ii) did not match the signatures on file with the Clerk of the House; (2) the Congressional Accountability Project failed to attach the refusal letters to the copy of the complaint given to Representative Shuster; and (3) the complaint itself was not sworn under oath.<sup>79</sup> On September 11, 1996, the Committee considered the procedural issues raised by Representative Shuster and on September 12, 1996, the Chairman and Ranking Member of the Committee sent a letter to Representative Shuster informing him that the complaint met the procedural requirements of the Committee's rules. *Exhibit 51*. In addition, on the same day, the Committee's then Chief Counsel, Theodore Van Der Meid, sent a letter to Representative Shuster's attorney responding in detail to the procedural challenges raised in the September 10, 1996, letter. *Exhibit 52*. The then Chief Counsel indicated in the letter that he had contacted the two Members whose signatures were challenged and that they had informed him that they had intended to transmit the letter of refusal. The letter also stated that the Committee had subsequently provided Representative Shuster with copies of the refusal letters and that the Committee was not prepared to reject the complaint on the basis that the service copy of the complaint must include copies of the refusal letters. Finally, the Chief Counsel indicated that the Committee had in the past accepted complaints utilizing the form of the notarization in the complaint filed by the Congressional Accountability Project and was reluctant to reject a complaint on a basis that it had not previously enunciated.<sup>80</sup>

On October 7, 1996, Representative Shuster's attorney's responded formally to the filing of the complaint. *Exhibit 53*. No further action regarding the complaint occurred during the 104<sup>th</sup> Congress.

## B. ETHICS MORATORIUM

On January 7, 1997, the House passed House Resolution 5, which reconstituted the Committee from the 104<sup>th</sup> Congress as a Select Committee on Ethics for the sole purpose of completing work in the investigation of Representative Newt Gingrich. Following the expiration of the Select Committee on Ethics, Representative James V. Hansen was appointed Chairman of the Committee on Standards of Official Conduct and Representative Howard L. Berman was appointed Ranking Minority Member. However, the Committee was not established until September 30, 1997, after the Ethics Task Force completed its work.

On January 12, 1997, the House named an Ethics Process Task Force ("Ethics Task Force"). It also announced that there was a moratorium on the filing of new ethics complaints until April 1, 1997. This

moratorium was subsequently extended by unanimous consents until September 10, 1997. At the conclusion of the Ethics Task Force, the House passed House Resolution 168 on September 18, 1997. **Exhibit 54.** This resolution adopted recommendations of the Ethics Task Force, with amendments, regarding future and pending investigations by the Committee.

On September 29, 1997, the remaining Members of the Committee were appointed for the 105<sup>th</sup> Congress. Representatives Lamar Smith, Martin Olav Sabo, Joel Hefley, Edward Pastor, Robert Goodlatte, Chaka Fattah, Joseph Knollenberg, and Zoe Lofgren joined the Committee. On September 30, 1997, the Committee met and was formally established for the 105<sup>th</sup> Congress.

### C. CARRYOVER AND CONSIDERATION OF COMPLAINT

On September 11, 1997 and September 12, 1997, Representative Shuster's attorney sent letters to Representative James Hansen, Chairman of the Committee, requesting that the Committee refrain from automatically considering the pending complaint against Representative Shuster. **Exhibit 55.** On September 30, 1997, the Committee voted to carryover the pending complaint against Representative Shuster. The Committee recognized its precedent of carrying over pending complaints once a new Committee is established for a new Congress. The Committee determined that the pending complaint against Representative Shuster would be processed under the rules and procedures adopted by the House for the 105<sup>th</sup> Congress, including the Ethics Task Force recommendations approved in House Resolution 168. The Committee also determined that the complaint filed on September 5, 1996, was properly filed and forwarded another copy to Representative Shuster for response.

On October 8, 1997, the Congressional Accountability Project requested permission to amend its September 5, 1996, complaint against Rep. Shuster. **Exhibit 56.** The amended complaint requested an investigation into various issues involving the Bud Shuster for Congress Committee. The Committee denied the request on October 8, 1997. **Exhibit 57.**

On November 5, 1997, Representative Shuster responded to the October 7, 1997 notice of filing and sent a letter to the Committee containing a Motion to Dismiss the complaint. **Exhibit 58.** The Motion to Dismiss challenged the filing of the complaint under the new rules of the 105<sup>th</sup> Congress and also contended that the complaint was not in conformance with Committee Rule 16 (a)(4).<sup>81</sup> In addition, the motion challenged the factual basis for the allegations in the complaint and included affidavits regarding the complaint from Representative Shuster and from Ms. Eppard.

### D. ESTABLISHMENT OF INVESTIGATIVE SUBCOMMITTEE

On November 9, 1997, the Chairman and Ranking Minority Member of the Committee informed the Committee that they had decided to establish an Investigative Subcommittee pursuant to Committee Rule 17(c)(2) to conduct an inquiry concerning Representative Shuster.<sup>82</sup> The Chairman and Ranking Minority Member of the Committee reviewed the complaint and Representative Shuster's motion to dismiss and determined that the complaint had been properly filed and that an inquiry by an Investigative Subcommittee was warranted. The Chairman and Ranking Member of the Committee informed the Committee of their decision on November 9, 1997. Representative Joel Hefley (R-CO) was named chairman of the subcommittee and Representative Zoe Lofgren (D-CA) was named ranking minority member. Pursuant to House Rule 10, Clause 6(a)(3) and Section 1 of House Resolution 168, Representatives Jim McCrery (R-LA) and Chet Edwards (D-TX) were also named to the Investigative Subcommittee.<sup>83</sup> In a letter to Representative Shuster dated November 14, 1997, the Chairman and Ranking Democratic Member informed Representative Shuster that they had established an Investigative Subcommittee and forwarded the complaint and response to the Investigative Subcommittee. **Exhibit 59.** The Committee publicly announced the establishment of the Investigative Subcommittee on November 14,

1997. *Exhibit 60*. The scope of the inquiry by the Investigative Subcommittee was not announced.

## E. INVESTIGATIVE PROCESS

The Investigative Subcommittee was established on November 14, 1997 and investigated this matter through March 2000. During 1998, many documentary subpoenas were served and a large volume of responsive documents were reviewed by the Investigative Subcommittee and its counsel. However, as described in more detail below, at the request of the Department of Justice, the Investigative Subcommittee deferred from interviewing or deposing witnesses throughout most of the calendar year 1998. At the end of 1998, the Investigative Subcommittee declined to continue to defer its investigation and announced that it would begin actively interviewing and deposing witnesses.

In January 1999, the Committee voted unanimously to carryover the investigation of Representative Shuster into the 106<sup>th</sup> Congress. During the remainder of 1999 and early 2000, the Investigative Subcommittee interviewed and deposed witnesses and served numerous additional documentary subpoenas. Between January and August of 1999, approximately 75 individuals were interviewed by counsel for the Investigative Subcommittee. In the fall of 1999 the Investigative Subcommittee formally deposed 32 individuals regarding the inquiry. In March 2000, Ms. Eppard was deposed over the course of two days. After the Eppard deposition, the Investigative Subcommittee submitted a draft Statement of Alleged Violation to Representative Shuster's attorneys. Shortly thereafter, Representative Shuster and the Investigative Subcommittee initiated negotiations concerning a settlement of the inquiry with an admission of violation of House Rules by Representative Shuster. On July 26, 2000 Representative Shuster admitted to a negotiated SAV in settlement of the investigation.

### 1. Documents obtained by the Investigative Subcommittee

In the course of the investigation, the Investigative Subcommittee authorized approximately 150 subpoenas for documents and served over 100 of those subpoenas.<sup>84</sup> In January 1998, the Investigative Subcommittee authorized 19 subpoenas for documents. It authorized additional subpoenas for documents in May 1998, June 1998, August 1998, October 1998, March 1999, July 1999, August 1999, September 1999 and October 1999. The Investigative Subcommittee received documents from Representative Shuster (in both personal and official capacities), Representative Shuster's congressional office, the Committee on Transportation and Infrastructure, current and former employees of Representative Shuster's congressional office, current and former employees of the Committee on Transportation and Infrastructure, Ms. Eppard, AEA, numerous clients and associates of Ms. Eppard,<sup>85</sup> the Bud Shuster for Congress Committee, financial institutions, government institutions and other relevant sources of information.

Documents obtained by the Investigative Subcommittee included: Representative Shuster's personal and official calendars, Ms. Eppard's personal and business calendars, Representative Shuster's personal financial records, Ms. Eppard's personal financial records and the financial records of Ann Eppard Associates, Ltd., Representative Shuster's personal telephone records, Ann Eppard's business telephone records, relevant telephone records of the Bud Shuster for Congress Committee, Representative Shuster's personal income tax returns, Ann Eppard's personal and business tax returns, items from Ann Eppard Associates and numerous clients of Ann Eppard Associates related to Ann Eppard's lobbying activities, items from the Bud Shuster for Congress Committee, items from the Bud Shuster Portrait Committee, those from several caterers used by Ann Eppard Associates, and others related to the investigation.

In early 2000, the Investigative Subcommittee also received documents from the U.S. Attorney's office for the District of Massachusetts related to its criminal investigation of Ms. Eppard, discussed further below.

## 2. Interviews and Depositions

In addition, counsel for the Investigative Subcommittee interviewed approximately 75 individuals and the Investigative Subcommittee deposed 33 individuals. Although most interviews were conducted in the Committee offices, a number of interviews were conducted at other locations or by telephone. Witnesses who voluntarily consented to be interviewed by Committee counsel were not placed under oath. The witnesses who were deposed by the Investigative Subcommittee were placed under oath pursuant to Committee Rule 20(a)(6). Most of the witnesses who were deposed appeared pursuant to subpoena, but a number of the witnesses agreed to appear for their depositions voluntarily. At least two Members of the Investigative Subcommittee were present for all depositions as required by Committee rules, although in fact, at least three Members were present for most of the depositions by the Investigative Subcommittee. Witnesses deposed included Ann Eppard, employees of Ann Eppard Associates, current and past employees of Representative Shuster's congressional office, current and past employees of the Committee on Transportation and Infrastructure, officers and volunteers of the Bud Shuster for Congress Committee, clients of AEA, officers of the Bud Shuster Portrait Committee, and other relevant witnesses.

### **F. REQUEST FOR DEFERRAL BY U.S. DEPARTMENT OF JUSTICE AND REQUEST FOR STAY BY REPRESENTATIVE SHUSTER**

In conducting its inquiry, the Investigative Subcommittee was concerned about the possible adverse impact its activities could have on an ongoing criminal investigation by the U.S. Department of Justice ("Department of Justice") relating to Ann Eppard and others. In December 1997, the Investigative Subcommittee notified the Department by letter that it had initiated an investigation of Representative Shuster. *Exhibit 62*. On January 16, 1998, the U.S. Attorney responded, "[W]e believe that it would be adverse to the interests of justice for the Committee to proceed with a full investigation at this time. Therefore, we respectfully request that the Committee not interview any witnesses or subpoena witnesses to testify before the Committee. We have no objection to the Committee serving subpoenas for the production of documents." *Exhibit 63*. The letter further stated, "[W]e expect that we will be in a position to provide you with further information on or about March 1, 1998."<sup>86</sup> The Investigative Subcommittee served 20 subpoenas for documents in late January 1998 and in early February 1998 but no witnesses were interviewed pending a decision by the Committee on the deferral request by the Department of Justice.<sup>87</sup>

The Investigative Subcommittee was not obligated to grant this request from the Department of Justice but voluntarily chose to do so based on the compelling reasons presented by the Department of Justice at that time.

On March 11, 1998, the Investigative Subcommittee and the Chairman and Ranking Member of the Committee and counsel met with the United States Attorney for Massachusetts and his staff.<sup>88</sup> The United States Attorney urged the Investigative Subcommittee to defer its investigation for at least several months. Both the United States Attorney and his staff advised the Investigative Subcommittee at the outset that it could not discuss information that constituted grand jury material within the meaning of Rule 6(e) of the Federal Rules of Criminal Procedure.<sup>89</sup> The Investigative Subcommittee also informed the U.S. Attorney's Office that Committee rules prevented it from disclosing any evidence to the Department of Justice.<sup>90</sup> Notwithstanding these substantial limitations, because it was public record that the Investigative Subcommittee was investigating Representative Shuster, and it was also public record that a grand jury in Boston was investigating allegations that concerned Representative Shuster, the Investigative Subcommittee and the Department of Justice were able to discuss the issue of deferral in a way that did not violate the respective rules of either party regarding confidentiality.

On March 17, 1998, the Department of Justice again asked the Committee to defer its investigation of

Representative Shuster. The letter stated that the United States Attorney "is particularly concerned about issues relating to possible congressional immunity, witness interviews by the Committee, possible discovery obligations resulting from the committee's investigation, and identification of any witnesses who may be cooperating or have testified in the grand jury pursuant to court ordered immunity." *Exhibit 65*.

On April 9, 1998 a grand jury in Boston, Massachusetts, indicted Ms. Eppard for conspiracy to violate the federal gratuity statute and related fraud charges while Ms. Eppard had served as Representative Shuster's chief of staff. *Exhibit 66*.<sup>91</sup> A press release issued by the United States Attorneys Office for the District of Massachusetts indicated, "[T]he investigation is continuing." *Exhibit 67*.

The Committee, in consultation with the Investigative Subcommittee and the Department of Justice, announced on June 10, 1998, that it would suspend interviews and depositions at the request of the Department of Justice. *Exhibit 68*. The Committee statement specified, "[T]he Department of Justice has indicated that its ongoing criminal investigation may relate to matters similar to those under investigation by the Committee." On June 15, 1998, the Committee released a second press statement which included as an attachment a letter to the Chairman and Ranking Member of the Committee from the Department of Justice requesting that the Committee "defer its formal investigation" of Representative Shuster. *Exhibit 69*. The letter from the Department of Justice stated that the Committee's investigation "will pose certain unavoidable risks to the cases currently under indictment, United States v. Ann Eppard and Vernon A. Clark, Crim. No 98-10069-JLT (D. Mass.) and United States v. Vernon A. Clark, Crim. No. 10069-JLT (D. Mass.), as well as the ongoing criminal investigation."

On September 24, 1998, counsel for the Investigative Subcommittee spoke with the United States Attorney by telephone. The United States Attorney again requested that the Investigative Subcommittee continue to defer its investigation of Representative Shuster. The U.S. Attorney indicated that his office had concerns that an active investigation by the Investigative Subcommittee might have an adverse impact on their investigation.<sup>92</sup>

On October 5, 1998, the Investigative Subcommittee voted to end its deferral of the investigation and to commence interviewing and deposing witnesses. The Investigative Subcommittee determined that it would be possible to go forward in a way that minimized the risk of complicating the investigation by the Office of the U.S. Attorney.<sup>93</sup> Another factor in the decision to begin interviewing witnesses was the fact that Representative Shuster was only under investigation and had not been indicted.<sup>94</sup>

On December 4, 1998, the Committee issued a press statement stating, "[T]he Investigative Subcommittee will proceed with interviews and depositions of witnesses in connection with its investigation of Representative Shuster." *Exhibit 70*. The Committee's obligation and legal authority to pursue an investigation is independent of any other investigation that might be conducted by another branch of the federal government. Although the Committee has the discretion to defer action on a complaint against a Member when it has reason to believe that the same conduct "is being reviewed by appropriate law enforcement or regulatory authorities" or when the Committee otherwise determines that it would be appropriate to have the conduct investigated by other parties, it is not obligated to defer its action.<sup>95</sup> In the instant matter, the Committee initially deferred interviews and depositions of witnesses at the request of the Department of Justice but after a period of months the Committee concluded that it would be appropriate to move forward with its own investigation.<sup>96</sup>

In a letter dated March 12, 1998, Representative Shuster, through his counsel, requested a stay of the Investigative Subcommittee's investigation pending the outcome of the criminal investigation by the Department of Justice. *Exhibit 71*.<sup>97</sup> In the letter, Representative Shuster's attorneys acknowledged that a grand jury was investigating Representative Shuster:

As counsel to Representative Shuster, we must formally request on behalf of Mr. Shuster that your investigative Subcommittee stay all proceedings in this matter pending the resolution of a federal Grand

Jury matter in the District of Massachusetts that, regrettably, appears to involve considerably overlapping, if not parallel, areas of investigation with those being pursued by your Subcommittee.

On March 20, 1998, the Committee notified Representative Shuster that it was denying the request for a stay. *Exhibit 72*.<sup>98</sup> The Committee noted that while it has previously deferred cases at the request of the Department of Justice, it has not done so at the request of respondents.<sup>99</sup>

#### **G. ENFORCEMENT OF SUBPOENAS TO REPRESENTATIVE SHUSTER AND CONGRESSIONAL EMPLOYEES**

On January 27, 1998, the Investigative Subcommittee authorized a subpoena for records from Representative Shuster. *Exhibit 73*. The subpoena was served on counsel for Representative Shuster on January 27, 1998. The subpoena required Representative Shuster to produce records described in eleven different areas during periods of time relevant to the inquiry, including:

- o Correspondence or other communications between Representative Shuster and Maurice Lawruk and/or Lawruk Builders, Inc.
- o Records and documents relating to the development and construction of the Penn Alto Hotel.
- o Records and documents relating to the development and construction of Shuster Chrysler [the business of William and Robert Shuster].
- o Correspondence, meetings and/or appointments between Representative Shuster and/or Ann Eppard and Maurice Lawruk or representatives of Lawruk Builders, Inc.
- o Correspondence, meetings and/or appointments between Representative Shuster and Ann Eppard and many of her clients.
- o Meetings and/or appointments of Representative Shuster from January 1, 1995 to the date of the subpoena.
- o A list of specific dates on which Representative Shuster sought lodging in the Washington, D.C. metropolitan area from January 1, 1991 to the date of the subpoena, including documentation reflecting the dates Representative Shuster stayed overnight in the following locations:
  - o Any and all personal residences owned by Ms. Eppard.
  - o Any and all personal residences owned by Representative Shuster in the Washington, D.C. metropolitan area.
  - o Any and all personal residences owned by Representative Shuster in Pennsylvania.
  - o Representative Shuster's office in the House Office Building of the U.S. House of Representatives.
  - o Any and all other locations where Representative Shuster stayed overnight in the Washington, D.C. metropolitan area.
- o Records and documents reflecting ownership by Representative Shuster of any and all residences in the Washington, D.C. metropolitan areas including any records reflecting dates any such personal residences were occupied by members of Representative Shuster's family and/or tenants.

- o Documents and records reflecting proof of payment of rental and/or lodging expenses paid by Representative Shuster and/or members of his family in the Washington, D.C. metropolitan area.
- o Representative Shuster's tax returns.
- o Personal, official and campaign telephone records.

In an effort to ensure that all relevant documents were obtained by the Investigative Subcommittee, Representative Shuster's Chief of Staff and scheduler were also served with subpoenas for documents related to the investigation.

Counsel for the Investigative Subcommittee met with attorneys for Representative Shuster on February 6, 1998. After a series of telephone conversations, Representative Shuster's attorneys agreed to produce a portion of the responsive documents on February 23, 1998. On February 23, 1998, however, with no prior notification to the Investigative Subcommittee, Representative Shuster's attorneys informed counsel for the Investigative Subcommittee that due to a possible "overlap" between the grand jury investigation in the District of Massachusetts and the Investigative Subcommittee's inquiry, they had been unable to obtain the subpoenaed documents and requested an extension until March 2, 1998. The Investigative Subcommittee granted Representative Shuster's request for an extension. *Exhibit 74*. After another request for more time, on March 5, 1998, the Investigative Subcommittee directed Representative Shuster to produce the subpoenaed documents no later than March 12, 1998. *Exhibit 75*.

After being granted another extension, on March 13, 1998, Representative Shuster produced leases, copies of checks, and deeds reflecting his ownership of a townhouse in the Washington, D.C. metropolitan area.<sup>100</sup> In addition to requesting a deferral, Representative Shuster raised Fifth Amendment questions regarding the production of the remaining items subpoenaed by the Investigative Subcommittee, focusing on his personal appointment calendars for 1995 and 1996, which had also been subpoenaed by the Office of U.S. Attorney.<sup>101</sup>

The Investigative Subcommittee considered Representative Shuster's requests and on March 20, 1998, the Committee demanded production of all remaining documents responsive to the subpoena.<sup>102</sup> The Committee noted that the subpoenas required production of official records and were therefore not subject to protection by the Fifth Amendment. The Committee did authorize Representative Shuster to redact portions of documents reflecting the substance of communications between Representative Shuster and his attorneys and national security entries or entries of a personal nature provided Representative Shuster advanced a specific request demonstrating compelling reasons to do so and permitted counsel for the Investigative Subcommittee to review the original unredacted documents.<sup>103</sup> The Committee informed Representative Shuster that if he did not produce the relevant documents, the Committee would seek to enforce compliance on the Floor of the House.

On March 27, 1998, and March 30, 1998, Representative Shuster produced additional documents responsive to the subpoena, including redacted copies of his personal calendars for 1995 and 1996.<sup>104</sup> On March 27, 1998, Representative Shuster also produced documents responsive to the subpoenas to his chief of staff and scheduler. *Exhibit 77*.<sup>105</sup>

On April 1, 1998, Representative Shuster's counsel orally informed counsel for the Investigative Subcommittee that Representative Shuster was requesting that the Committee on Standards apply for a court order granting him act of production immunity for the documents he had already produced and for the unredacted personal calendars. On April 1, 1998, the Investigative Subcommittee informed Representative Shuster that it would take his request for act of production immunity under advisement. *Exhibit 78*.

The Investigative Subcommittee determined to hold production of the unredacted personal calendars in

abeyance pending further developments in the federal grand jury investigation in Massachusetts. On June 10, 1998, the Committee advised Representative Shuster that his request for act of production immunity should have been made prior to the initial production of the redacted calendars and that it lacked authority to grant act of production immunity retroactively. *Exhibit 79*.

#### **H. ENFORCEMENT OF SUBPOENAS AND ACT OF PRODUCTION IMMUNITY FOR ANN M. EPPARD**

On January 27, 1998, the Investigative Subcommittee authorized subpoenas for records from Ms. Eppard personally and from Ms. Eppard in her capacity as president of Ann Eppard Associates, Ltd. ("AEA"). *Exhibit 80*. The subpoenas were served on counsel for Ms. Eppard on January 28, 1998. The subpoenas required Ms. Eppard to produce records from time periods relevant to the inquiry, that included:

- Records related to Maurice Lawruk, Lawruk Builders, Inc., Shuster Chrysler, or the Penn Alto Hotel.
- Communications between Ms. Eppard and Representative Shuster regarding many of her clients.
- Communications between Ms. Eppard and current or former Members of the House Committee on Transportation and Infrastructure regarding many of her clients.
- Communications between Ms. Eppard and current or former employees of Representative Shuster's congressional offices regarding many of her clients.
- Bank accounts maintained by Ann Eppard Associates, Ltd.
- Documents reflecting Ms. Eppard's providing transportation of Representative Shuster.
- Telephone records.
- Rental or lodging expenses paid by Representative Shuster and family members to Ms. Eppard or her business.
- A list of specific dates on which Representative Shuster sought lodging in any and all personal residences owned by Ms. Eppard.
- Any payments or expenditures made by Ms. Eppard or her business on behalf of Representative Shuster or members of his family.

During February 1998 counsel for the Investigative Subcommittee and the attorney for Ms. Eppard and AEA had a series of telephone conversations and meetings in which they agreed that the Investigative Subcommittee would narrow its requests for documents. Between February 26, 1998 and March 16, 1998, Ms. Eppard produced five installments of approximately 1250 pages of documents responsive to the subpoenas.<sup>106</sup>

At a meeting on February 19, 1998, Ms. Eppard's attorney indicated that he was coordinating his representation with Ms. Eppard's attorney in Boston and inquired as to the possibility of act of production immunity. In subsequent telephone conversations, counsel for the Investigative Subcommittee indicated that act of production immunity was rarely requested of congressional committees and that it would require a proffer from Ms. Eppard. On March 3, 1998, Ms. Eppard's attorney gave an oral proffer to counsel for the Investigative Subcommittee. On March 4, 1998, Ms. Eppard's attorney informed counsel for the Investigative Subcommittee that Ms. Eppard had received act of production immunity in connection with the grand jury investigation.

On March 10, 1998, Ms. Eppard's attorney advised Subcommittee counsel that his client would assert her Fifth Amendment rights if the Subcommittee sought to compel her production of the documents unless she received act of production immunity. On March 11, 1998, Ms. Eppard was informed that the Investigative Subcommittee would take her request to receive act of production immunity under advisement. **Exhibit 81.**

Based on the oral proffer provided to Subcommittee counsel, the Investigative Subcommittee determined that obtaining the documents subpoenaed from Ms. Eppard was substantially important to its inquiry. For that reason, the Subcommittee unanimously voted on March 17, 1998 to recommend that the Committee seek an order granting act of production immunity. On March 18, 1998, the Committee voted to seek a court order granting act of production immunity to Ms. Eppard, pursuant to the requirements of 18 U.S.C. § 6005.<sup>107</sup>

On April 15, 1998, the U.S. District Court for the District of Columbia signed an order giving Ms. Eppard act of production immunity. **Exhibit 82.** Pursuant to the order, Ms. Eppard produced: (1) redacted and unredacted personal calendars for 1995; (2) redacted tax returns for 1995 and 1996; and (3) bank deposit slips relating to funds received from Representative Shuster. Pursuant to the order, AEA produced: (1) telephone records for 1995 and 1996; (2) bank statements for 1995; (3) redacted credit card statements and receipts for 1995, 1996 and 1997; (4) unredacted and redacted calendars for 1995, 1996 and 1997; and (5) redacted invoice ledgers for 1996 and 1997.

Based on its review of the redacted calendars produced by Ms. Eppard and AEA, the Investigative Subcommittee determined that review of the unredacted calendars was necessary to a complete investigation of the allegations against Representative Shuster. On May 7, 1998, the Investigative Subcommittee authorized subpoenas for unredacted copies of all calendars maintained by Ms. Eppard and AEA between January 1, 1994, to the present. **Exhibit 83.**<sup>108</sup> These documents were due to be produced no later than May 15, 1998. Counsel to the Investigative Subcommittee engaged in a series of discussions with counsel for Ms. Eppard.

Ms. Eppard's counsel indicated that Ms. Eppard remained uncomfortable with producing unredacted calendars to the Investigative Subcommittee that had not been produced to the grand jury. In an effort to accommodate those concerns, Subcommittee counsel agreed to review the original unredacted calendars with the understanding that after they completed their review, the Investigative Subcommittee would only require production of the documents that it deemed relevant to its investigation. On May 15, 1998, Ms. Eppard filed a motion to limit the scope of the May 7, 1998 subpoenas. Her attorneys argued that the new subpoenas were outside the scope of the Investigative Subcommittee's jurisdiction and were also unfair to a defendant in a parallel criminal case. **Exhibit 84.**

On May 20, 1998, the Investigative Subcommittee denied Ms. Eppard's motion and directed Ms. Eppard to produce the documents by no later than May 21, 1998 or such other date as was mutually agreed upon by counsel. **Exhibit 85.**<sup>109</sup> The Investigative Subcommittee directed its counsel to endeavor to work out production with Ms. Eppard in mutually satisfactory terms. On May 21, 1998, Ms. Eppard's attorney produced unredacted tax returns for Ms. Eppard and AEA and agreed to produce Ms. Eppard's responsive personal bank or personal credit card records by May 29, 1998. **Exhibit 87.** In addition, her attorney agreed to a tentative *in camera* inspection of calendars of Ms. Eppard and AEA by counsel for the Investigative Subcommittee. Counsel for the Investigative Subcommittee subsequently met with Ms. Eppard's attorney and reviewed the unredacted calendars for Ms. Eppard and AEA. Based on this review, counsel recommended to the Investigative Subcommittee production of approximately 1000 unredacted calendar pages. On June 3, 1998, and June 4, 1998, Ms. Eppard and AEA produced the requested unredacted calendars pages.<sup>110</sup>

## I. EXPANSION OF JURISDICTION

On October 6, 1998, the Investigative Subcommittee voted unanimously to expand the jurisdiction of its inquiry, pursuant to Committee Rule 20 (c), to include an inquiry into practices of the Bud Shuster for Congress Committee between 1994 and 1998. On October 6, 1998, the full Committee voted to expand the Investigative Subcommittee's jurisdiction to include these issues. The Committee's report for the 105<sup>th</sup> Congress indicated that the jurisdiction of the Investigative Subcommittee had been expanded to include "an examination of whether violations of House Rules and/or federal law were committed with respect to Representative Shuster's 1994, 1996, and 1998 campaigns for election to the U.S. House of Representatives."

The Committee notified Representative Shuster of the expansion of jurisdiction pursuant to Committee Rule 27(g)(4) and on October 20, 1998, Representative Shuster filed a motion with Committee objecting to the expansion. *Exhibit 89*.<sup>111</sup> On November 18, 1998, the Committee affirmed that the expansion was proper. In a letter to Representative Shuster, the Committee indicated that the expansion was based upon a recommendation by the Investigative Subcommittee which was approved by the Committee. *Exhibit 90*.

Pursuant to a subpoena from the Investigative Subcommittee, counsel for the Bud Shuster for Congress Committee authorized staff for the Investigative Subcommittee complete access to all records maintained by the campaign committee. In December 1998, counsel for the Investigative Subcommittee and GAO auditors detailed to the case spent three days in Altoona, Pennsylvania reviewing all original documents possessed by the BSCC treasurer. Subsequent to this review, the Bud Shuster for Congress Committee photocopied thousands of pages of relevant documents and produced them to the Investigative Subcommittee. In addition, the BSCC produced thousands of pages of original documents into the custody of the Investigative Subcommittee.<sup>112</sup> In August 1999, counsel for the Investigative Subcommittee returned to Altoona, Pennsylvania and reviewed a portion of the original documents in the possession of the campaign. Pursuant to this review, the BSCC produced copies and originals of several hundred pages of additional records to the Investigative Subcommittee.

In October 1998, the Investigative Subcommittee subpoenaed Ms. Eppard and AEA for documents relevant to the expansion of the inquiry. *Exhibit 91*.<sup>113</sup>

## J. CARRYOVER OF COMPLAINT TO 106<sup>TH</sup> CONGRESS

On January 20, 1999, the Committee voted to carryover the pending complaint against Representative Shuster. *Exhibit 92*. On February 10, 1999, the Chairman and Ranking Member of the Committee reappointed Representatives Hefley and Lofgren to the Investigative Subcommittee and announced to the Committee that Representatives McCrery and Edwards had been reappointed to the Investigative Subcommittee pursuant to House Rule 10, clause 5(a)(4).

On February 2, 1999, Representative Shuster, through his attorneys, requested the termination of the investigation.<sup>114</sup> The Committee responded to this letter on February 4, 2000. *Exhibit 93*. The Investigative Subcommittee responded on March 10, 1999. *Exhibit 94*.<sup>115</sup>

## K. WITNESS IMMUNITY

In response to subpoenas for their testimony, four material witnesses asserted their rights against self incrimination under the Fifth Amendment to the U.S. Constitution: Thomas J. Hoyne, Maurice A. Lawruk, Ms. Eppard and a House employee who formerly worked in Representative Shuster's congressional office.<sup>116</sup> The Investigative Subcommittee determined that the testimony of each witness was substantially important to its inquiry. The Department of Justice did not oppose a grant of immunity to any of these

witnesses. Each of these witnesses received a grant of testimonial immunity from the U.S. District Court for the District of Columbia and testified before the Investigative Subcommittee pursuant to the immunity order.

Prior to requesting an immunity order for the House employee, the Investigative Subcommittee reviewed precedents for granting testimonial immunity to employees of the House of Representatives. The Investigative Subcommittee found that the Committee has authorized grants of immunity involving current House employees prior to the investigation of Representative Shuster.<sup>117</sup>

Ms. Eppard's testimonial immunity order is discussed below.

#### **L. DOCUMENT PRODUCTION BY U.S. DEPARTMENT OF JUSTICE AND TESTIMONIAL IMMUNITY FOR ANN M. EPPARD**

On November 1, 1999, Ms. Eppard pleaded guilty in the U.S. District Court for the District of Massachusetts to a one-count information charging that she received illegal compensation from a lobbyist while she was employed as Representative Shuster's chief of staff. *Exhibit 95*.<sup>118</sup>

On November 1, 1999, the U.S. Attorney informed counsel for the Investigative Subcommittee that the grand jury investigation of Representative Shuster was probably concluded.<sup>119</sup> In *The New York Times* the next day, the U.S. Attorney was quoted as saying, "[T]his ends the case against Ann Eppard and Vernon Clark, and it ends the investigation." *Exhibit 96*.<sup>120</sup> On February 8, 2000, the Committee wrote to the U. S. Attorney for the District of Massachusetts, requesting assistance in the Committee's investigation. *Exhibit 97*.<sup>121</sup> Pursuant to this request, in February and March 2000, the Investigative Subcommittee received several thousands of pages of documents from the Office of the United States Attorney relevant to this investigation. Many of these documents were duplicative of materials the Investigative Subcommittee had obtained through its investigation.

On November 2, 1999, the Investigative Subcommittee subpoenaed Ms. Eppard to testify before the Subcommittee. *Exhibit 98*. Pursuant to her attorney's request, the subpoena was served on Ms. Eppard by U.S. Marshals on November 17, 1999. On January 11, 2000, Ms. Eppard's attorney notified counsel for the Investigative Subcommittee that Ms. Eppard intended to refuse to answer any question based on her constitutional privilege against self-incrimination.

Based on her positions in Representative Shuster's campaign, as a lobbyist appearing frequently before the Committee on Transportation and Infrastructure and her role as his former Chief of Staff, the Investigative Subcommittee determined that obtaining the testimony of Ms. Eppard was vital to the conclusion of its inquiry. It was also a significant factor for the Investigative Subcommittee that the Department of Justice was not opposed to Ms. Eppard's request for testimonial immunity.<sup>122</sup> For these reasons, the Investigative Subcommittee unanimously voted on February 1, 2000, to recommend that the Committee seek an order granting testimonial immunity.<sup>123</sup> On February 2, 2000, the Committee voted unanimously to seek a court order granting testimonial immunity to Ms. Eppard, pursuant to the requirements of 18 U.S.C. § 6005. The Department of Justice did not oppose the Committee's request for this immunity order.

On February 17, 2000, the U.S. District Court for the District of Columbia, signed an order giving Ms. Eppard testimonial immunity. *Exhibit 99*. Pursuant to the order, Ms. Eppard testified before the Investigative Subcommittee on March 7 and March 8, 2000.

#### **M. ACT OF PRODUCTION IMMUNITY FOR REPRESENTATIVE SHUSTER**

On November 3, 1999, two days after Ms. Eppard entered a guilty plea and the U.S. Attorney indicated that the grand jury investigation was concluded, the Investigative Subcommittee directed Representative Shuster to produce unredacted copies of his personal calendars for 1995 and 1996. *Exhibit 100*. Production of these documents had been held in abeyance pending resolution of the grand jury investigation, see above. On November 9, 1999, Representative Shuster requested that the Investigative Subcommittee defer its request pending assurances from the Department of Justice that Representative Shuster was not under investigation by any component of the Department. *Exhibit 101*. Included as an attachment to this correspondence was a letter from the U.S. Attorney in Massachusetts addressed to Representative Shuster's counsel in Boston stating, "I will state that, at this time, Congressman Shuster is neither a subject nor a target (as those terms are defined in the United States Attorneys Manual) of any investigation being conducted or supervised by this office." On November 12, 1999, Representative Shuster's attorneys wrote the Department of Justice again, inquiring, "whether any Office (including any Office of United States Attorney) or Division of the United States Department of Justice currently has ongoing any investigation of which Congressman Shuster is the subject or target." *Exhibit 102*.

On February 17, 2000, the Investigative Subcommittee sent a letter to Representative Shuster, through his attorneys, in which it demanded production of the unredacted portions of Representative Shuster's personal calendars for 1995 and 1996. *Exhibit 103*.<sup>124</sup> The letter acknowledged that Representative Shuster had previously asserted that the U.S. District Court in Boston had authorized him to redact three categories of material from his calendars before they were submitted to the grand jury: (1) matters related to national security; (2) matters subject to attorney-client privilege, and (3) matter that were deemed personal. In this letter, the Investigative Subcommittee also detailed the procedures that Representative Shuster should observe in producing the unredacted material to the Subcommittee or for justifying continued assertions of privilege. Despite receiving no indication from the Department of Justice that Representative Shuster remained under investigation, on February 24, 2000, Representative Shuster's attorneys advised the Investigative Subcommittee they would recommend that their client refuse to produce the documents without act of production immunity. *Exhibit 104*.<sup>125</sup> Representative Shuster's attorneys continued to assert national security as one of the reasons for this position.

The Investigative Subcommittee unanimously voted on March 9, 2000 to recommend that the Committee seek an order granting act of production immunity to Representative Shuster for production of the unredacted personal calendars. The Investigative Subcommittee noted that there is a legitimate concern regarding whether it is sound policy to grant immunity of any sort to a Member of the House of Representatives. The Investigative Subcommittee took this action only after careful deliberation and a determination that act of production immunity would not be detrimental to its investigation or any other investigation. In addition, the Department of Justice informed the Committee on March 2, 2000, that it had no objection to the order. *Exhibit 105*. Therefore, the Investigative Subcommittee determined that the legal effect of obtaining an additional act of production immunity order from the district court in Washington, D.C. would be nominal.<sup>126</sup> On March 15, 2000 the Committee voted unanimously to seek a court order granting act of production immunity to Representative Shuster, pursuant to the requirements of 18 U.S.C. § 6005.<sup>127</sup>

On March 17, 2000, the U.S. District Court for the District of Columbia, signed an order giving Representative Shuster act of production immunity for his unredacted personal calendars for 1995 and 1996. *Exhibit 107*. In a telephone conversation with counsel for the Subcommittee on March 17, 2000 an attorney for Representative Shuster indicated that there would be no redactions for national security reasons but requested three additional days before producing the unredacted calendars because he was preparing privilege logs.<sup>128</sup> On March 20, 2000 Representative Shuster produced copies of his unredacted calendars to the Investigative Subcommittee. *Exhibit 108*. The letter from his attorneys indicated that "there have been no redactions of any kind made from the entries in these calendars." Consequently, no privilege logs of redacted information were turned over to the Investigative Subcommittee.

## **VI. STATEMENT OF ALLEGED VIOLATION**

### **A. Settlement Negotiations**

After the conclusion of depositions in March, 2000, lengthy discussions were held between the Investigative Subcommittee, through its counsel, with Representative Shuster's attorneys.

On July 19, 2000, the Investigative Subcommittee and Representative Shuster reached mutually acceptable settlement terms. The Investigative Subcommittee agreed to adopt the SAV in its current form, dated July 26, 2000, conditioned on Representative Shuster's agreement to admit to the charges contained in the document. The Investigative Subcommittee never proceeded to Committee Rule 27(c) and therefore never provided any of the evidence upon which it was relying to Representative Shuster.

Rule 27 (c) of the Rules of the Committee on Standards of Official Conduct provides that:

[n]ot less than 10 calendar days before a scheduled vote by an investigative subcommittee on a Statement of Alleged Violation, the subcommittee shall provide the respondent with a copy of the Statement of Alleged Violation it intends to adopt together with all evidence it intends to use to prove those charges which it intends to adopt, including documentary evidence, witness testimony, memoranda of witness interviews, and physical evidence...

Representative Shuster and the Investigative Subcommittee initiated settlement negotiations after the Investigative Subcommittee concluded its investigation but before the Investigative Subcommittee proceeded to Rule 27(c). Had the Investigative Subcommittee drafted a Statement of Alleged Violation and forwarded it to Representative Shuster along with all documentary evidence it intended to rely upon under Rule 27(c), that initial draft could have been made a part of the record of these proceedings. The Investigative Subcommittee clearly advised Representative Shuster and his attorneys that in electing to settle the matter prior to proceeding to Rule 27(c), Representative Shuster would not receive the documentary evidence identified in Rule 27(c). Representative Shuster voluntarily elected to settle the matter with the Investigative Subcommittee at that stage of the proceedings, thereby waiving his right to review the documentary evidence the Investigative Subcommittee had obtained in the course of its investigation.<sup>129</sup>

### **B. Recommended Sanction**

On July 19, 2000, the Investigative Subcommittee and Representative Shuster further agreed that the Investigative Subcommittee would recommend to the full Committee on Standards of Official Conduct that the Committee impose a letter of reproof at the conclusion of its deliberations. Representative Shuster understood that although the full Committee on Standards would give great weight to the recommendations of the Investigative Subcommittee as to the sanction the full Committee should impose, the full Committee was not obligated to follow the Subcommittee's recommendation. As a condition to admitting to the charges, Representative Shuster requested that the Investigative Subcommittee execute an agreement providing that in the event the full Committee did not vote to impose a Letter of Reproof at the conclusion of its deliberations, Representative Shuster could withdraw his answer to the July 26 Statement of Alleged Violation, in which case the proceedings would revert to regular order under Committee Rules of Procedure. If that should occur, the Investigative Subcommittee may adopt, if it chooses to do so, another version of a Statement of Alleged Violations which would, in all likelihood, require an adjudicatory hearing to prove all charges in the new Statement of Alleged Violations.

Representative Shuster waived his right to an adjudicatory hearing under Committee Rule 24 and his

right to have the settlement terms reduced to writing under Committee Rule 27(h). On July 25, 2000, Representative Shuster admitted to a Statement of Alleged Violation pursuant to a negotiated settlement with the Investigative Subcommittee. Pursuant to the negotiated agreement, the Investigative Subcommittee agreed to recommend to the Committee that the appropriate sanction for Representative Shuster's misconduct would be a letter of reproof written by the Committee.

The four Members of the Investigative Subcommittee unanimously agreed that the Statement of Alleged Violation identifies misconduct by Representative Shuster that brought discredit to the House of Representatives. Indeed, the Investigative Subcommittee determined that the violations to which Representative Shuster admitted could constitute the type of serious conduct meriting the imposition of a reprimand. Such a view could be supported by several other factors, including the duration of the conduct engaged in by Representative Shuster and the repetitive nature of the conduct.

On balance, however, the Investigative Subcommittee determined that a letter of reproof is an appropriate recommended sanction in this matter. A fundamental difference between the sanction of reprimand and that of a letter of reproof is that reprimand is imposed by the full House of Representatives, whereas a letter of reproof is a sanction imposed by the Committee on Standards of Official Conduct.<sup>130</sup> But it should be emphasized that a letter of reproof itself is intended to be a clear public statement of rebuke of a Member's conduct issued by a body of that Member's peers acting, as the Committee on Standards of Official Conduct, on behalf of the House of Representatives.

In determining that a letter of reproof is an appropriate recommended sanction in this matter the Investigative Subcommittee gave weight to the fact that its findings regarding Representative Shuster's conduct would be fully and publicly aired. A letter of reproof is written by the Committee and is made public with any report to the House. The Investigative Subcommittee emphasizes here our consideration of the fact that any letter of reproof would be written unilaterally by the Committee, with no input from Representative Shuster. Finally, the Investigative Subcommittee notes that this Report, to be made public pursuant to Committee Rules, details the Investigative Subcommittee's findings regarding and evaluations of Representative Shuster's conduct.

The Investigative Subcommittee considered a number of other factors in concluding that a letter of reproof would be an appropriate recommended sanction, all of which factors were balanced by the determination of all the Members of the Investigative Subcommittee that any sanction should adequately reflect the seriousness of the conduct. The Investigative Subcommittee gave great weight to the fact that Representative Shuster was filing an answer admitting to the charges and waiving his right to an adjudicatory hearing. The Investigative Subcommittee also gave great weight to the fact that, by admitting to the charges, Representative Shuster acknowledged that his conduct did not reflect creditably on the House of Representatives.

The conclusion of the Investigative Subcommittee as to recommending a letter of reproof as the sanction to be imposed in this matter explicitly recognizes that the full Committee will make the ultimate decision as to what sanction is imposed. As noted, if the full Committee declines to accept the recommendation of the Investigative Subcommittee, the settlement agreement is void and the full Committee will proceed to an adjudicatory hearing.

### **C. Adoption of Statement of Alleged Violation**

On July 26, 2000, at a meeting held in executive session, the Investigative Subcommittee unanimously adopted the Statement of Alleged Violation dated July 26, 2000, and accepted Representative Shuster's answer admitting to the charges contained in the Statement of Alleged Violation. All four Members of the Investigative Subcommittee were present.

Later that day, at a meeting held in executive session, the four Members of the Investigative Subcommittee met with the Members of the full Committee on Standards of Official Conduct.<sup>131</sup> At that meeting, the Investigative Subcommittee informed the full Committee that it had settled the matter with Representative Shuster and asked the full Committee to consider Representative Shuster's waiver of an adjudicatory hearing. The Investigative Subcommittee further advised the full Committee that each and every action it had taken throughout the entire investigation had been completely unanimous and conducted in an entirely bipartisan manner.

Counsel to the Investigative Subcommittee maintained an extremely close working relationship with the four Members of the Investigative Subcommittee throughout the course of the investigation, often having daily contact with all four Members for their guidance and input. This method ensured that the investigative process properly reflected the will of the Members individually and collectively at each stage of the proceedings.

The motion to accept Representative Shuster's waiver of an adjudicatory hearing was unanimously accepted by the nine Members of the full Committee who were present at the meeting. *Exhibit 125*. The Investigative Subcommittee stressed that it and Representative Shuster strongly desired to conclude proceedings in September.

#### **D. Post-July 26, 2000 Activity**

During the August District Work Period, counsel to the Investigative Subcommittee drafted this Report of the proceedings which was subsequently reviewed and edited by all four Members of the Investigative Subcommittee.

The Investigative Subcommittee instructed Representative Shuster, and Representative Shuster has agreed, that in his response to this Report, as part of its negotiated settlement, Representative Shuster cannot undermine the Statement of Alleged Violation.

The Members of the Investigative Subcommittee and the full Committee on Standards of Official Conduct agreed that there would be no public comment by any party on this matter prior to September. The Investigative Subcommittee will provide this Report and Representative Shuster's response to the full Committee on Standards of Official Conduct as soon as it is practicable to do so.

### **VII. RESULTS OF INQUIRY REGARDING CONDUCT NOT CHARGED IN STATEMENT OF ALLEGED VIOLATION**

The following section of the Report discusses evidence regarding matters alleged in the original complaint and also within the scope of the Investigative Subcommittee's jurisdiction due to the expansion of jurisdiction in October 1998, that did not result in charges against Representative Shuster. This evidence is included in the Report to ensure that there is an accessible public record of the results of the inquiry concerning each matter within the scope of the Subcommittee's investigation.

#### **A. "Complex Web"**

The complaint raised numerous allegations regarding "a complex interconnecting web of legislative, political, financial, and personal ties" between Representative Shuster and Ms. Eppard.<sup>132</sup> According to the complaint, the roles that Ms. Eppard played for Representative Shuster's included between November 1994 and September 1996 included:

- o Ms. Eppard's role as a Washington fundraiser for Representative Shuster and as assistant treasurer for Representative Shuster's campaign committee during 1995.
- o Ms. Eppard's role as Representative Shuster's "Top political aide" and as a political consultant to Representative Shuster's campaign committee responsible for district affairs.
- o Ms. Eppard served as a "Press aide" for Representative Shuster's congressional office during a period of time in 1996.
- o Ms. Eppard was Chairman of the Bud Shuster Portrait Committee.
- o Ms. Eppard worked as a campaign aide and fundraiser for Robert Shuster during his 1996 primary campaign for the House of Representatives.
- o Ms. Eppard was a "Liaison for special interests wanting Mr. Shuster to appear at Washington events."
- o Ms. Eppard provided housing to Representative Shuster.
- o Ms. Eppard remained a *de facto* official staff person for Representative Shuster after she left his congressional staff by often acting as Representative Shuster's driver to and from his office on Capitol Hill.

In addition, the "complex web" allegation charged that Representative Shuster "implicitly recommended Eppard to potential lobbying clients."<sup>133</sup> The complaint also alleged that it appeared Ms. Eppard "may have violated the one-year post-employment prohibition against personal staff lobbying their former employer."<sup>134</sup>

The Investigative Subcommittee subpoenaed documents from Representative Shuster, the Bud Shuster for Congress Committee, the Bob Shuster for Congress Committee, Robert Shuster, Ms. Eppard, Ann Eppard Associates, Ltd. ("AEA"), the Committee on Transportation and Infrastructure, the Pennsylvania Department of Motor Vehicles, the Virginia Department of Motor Vehicles, Bun Air Corporation, the Save Letterkenny Coalition, the Bud Shuster Portrait Committee and lobbyists and individuals with relevant information concerning these allegations. The Investigative Subcommittee also received documents from the Sergeant of Arms of the House and the House Finance Office.

After reviewing these documents, Ms. Eppard, employees of Representative Shuster's congressional office, employees of the Committee on Transportation and Infrastructure, employees of the House Sergeant of Arms Office, AEA employees, U.S. Capitol Police officers, current and former employees of Members of Congress and other lobbyists and individuals were interviewed or deposed. Witnesses involved with the Letterkenny Army Depot were also interviewed.<sup>135</sup>

Representative Shuster has admitted to a pattern of conduct between 1993 and 1998 that did not reflect creditably on the House of Representatives. Several of the areas of misconduct specified in the Statement of Alleged Violation adopted by the Investigative Subcommittee on July 26, 2000, focused on the conduct of Representative Shuster and Ms. Eppard. The Investigative Subcommittee found:

- o Representative Shuster engaged in a pattern and practice of knowingly allowing Ms. Eppard to appear before or communicate with him in his official capacity, during the twelve-month period following her resignation as his chief of staff, on occasions and in a manner that created the appearance that his official decisions might have been improperly affected.

- o Representative Shuster routinely encouraged, authorized or otherwise accepted the scheduling and advisory services of Ms. Eppard on matters that were official in nature and which should have been performed by his congressional staff during an eighteen-month period following her resignation as his chief of staff.
- o While under the supervision and control of Representative Shuster as their employing Member of Congress, employees in Representative Shuster's congressional office worked for the Bud Shuster for Congress Committee to the apparent detriment of the time they were required to spend in the congressional office. While working for the BSCC, these congressional employees worked closely with Ms. Eppard and her firm, AEA.
- o Certain expenditures by the Bud Shuster for Congress Committee ("BSCC") combined with record-keeping practices followed by the BSCC inadequate to verify the legitimate campaign purposes of these expenditures, created the appearance that certain of these expenditures may not have been attributable to bona fide campaign or political purposes. Ms. Eppard, in her role as Assistant Treasurer for the BSCC, approved these expenditures.

However, the Investigative Subcommittee determined that other than as set forth in the Statement of Alleged Violation and described in Section II, above, it did not find substantial reason to believe that Representative Shuster's conduct and relationship with Ms. Eppard as specifically described and listed in the CAP complaint under the "complex web" allegation violated any law, rule, regulation, or other standard of conduct applicable to Representative Shuster.<sup>136</sup> The Investigative Subcommittee found no overall "complex web" of relationships between Representative Shuster and Ms. Eppard in violation of standards of conduct applicable to Representative Shuster.

#### 1. The "Complex Web" Allegations Listed in the CAP Complaint

This section of the report summarizes the findings of fact by the Investigative Subcommittee regarding the "complex web" allegations listed in the CAP Complaint. Findings by the Investigative Subcommittee as set forth in the Statement of Alleged Violation are discussed in detail in Section II, above.

##### *a. Ms. Eppard's Role As A Washington Fundraiser For Representative Shuster And As Assistant Treasurer For Representative Shuster's Campaign Committee During 1995*

The Investigative Subcommittee found that Ms. Eppard served as Assistant Treasurer of the Bud Shuster for Congress Committee ("BSCC") from 1972 to November 1994. The Investigative Subcommittee determined that Ms. Eppard retained this role in the BSCC while also serving as Representative Shuster's chief of staff in his congressional office. It also determined that in her role as Assistant Treasurer, Ms. Eppard was involved in fundraising for the BSCC. The Investigative Subcommittee also concluded that when Ms. Eppard left Representative Shuster's congressional office in November 1994, she retained her position as Assistant Treasurer for the campaign committee and continued to raise money for the BSCC. Ms. Eppard testified that she was still the Assistant Treasurer for the BSCC as of the date of her appearance before the Investigative Subcommittee in March 2000.

The Investigative Subcommittee determined that in November 1994, Ms. Eppard's new firm, Ann Eppard Associates, Ltd., became a consultant to the BSCC.<sup>137</sup> Ms. Eppard and AEA employees testified that AEA organized fundraisers for the BSCC.

The Investigative Subcommittee did not find substantial reason to believe that Representative Shuster violated any law, rule, regulation, or other standard of conduct applicable to the conduct of a Member of the House by permitting Ms. Eppard to serve as Assistant Treasurer for the BSCC and by permitting the BSCC to hire AEA as a consultant. As set forth in Section II, above, the Investigative Subcommittee had separate concerns regarding Ms. Eppard's actions in these roles and Representative Shuster's conduct in failing to ensure that her actions in these roles were proper.

b. *Ms. Eppard's Role as "Political Advisor"*

The Investigative Subcommittee found that Ms. Eppard was an important political advisor to Representative Shuster. The Investigative Subcommittee determined that in her role as chief of staff in his congressional office, as assistant treasurer to the BSCC and later as a consultant to the BSCC, Ms. Eppard was Representative Shuster's chief political advisor regarding matters in his congressional district.<sup>138</sup>

The Investigative Subcommittee received evidence that in 1995 and 1996, Ms. Eppard worked to prevent the closure of the Letterkenny Army Depot, located in Representative Shuster's Congressional district.<sup>139</sup> It determined Ms. Eppard worked closely on a volunteer basis with the "Letterkenny Coalition," a group of citizens formed in response to the Department of Defense's recommendation in 1993 to realign the Letterkenny Army Depot. The Investigative Subcommittee received evidence that Representative Shuster served as the Chairman of the "Letterkenny Coalition."

The Investigative Subcommittee also received testimony and reviewed BSCC reports to the Federal Election Commission and other BSCC documents indicating that in June, 1995, Representative Shuster used BSCC funds to fly to a hearing of the Department of Defense Base Closure and Realignment Commission ("BRAC") and testified against closing the Letterkenny Depot. The records revealed to the Investigative Subcommittee that Ms. Eppard traveled with Representative Shuster to this hearing. The Investigative Subcommittee determined that Ms. Eppard traveled in her role as Assistant Treasurer for the BSCC and consultant to the BSCC.

The Investigative Subcommittee did not find substantial reason to believe that Ms. Eppard represented Representative Shuster in her volunteer work for the "Letterkenny Coalition." The Investigative Subcommittee also did not find substantial reason to believe that there was an improper link between Ms. Eppard's volunteer work for the Letterkenny Coalition and her BSCC involvement in the BRAC hearing regarding the Letterkenny Depot.

The Investigative Subcommittee did not find substantial reason to believe that Representative Shuster violated any law, rule, regulation, or other standard of conduct applicable to a Member of Congress by permitting Ms. Eppard to serve as a political advisor regarding matters in his congressional district.

c. *Press Aide*

The Investigative Subcommittee found no evidence that Ms. Eppard had served as a "press aide" for Representative Shuster's congressional office.

d. *The Bud Shuster Portrait Committee*

As part of its investigation into the various relationships between Representative Shuster and Ms.

Eppard, the Investigative Subcommittee examined Ms. Eppard's role in raising funds for a portrait of Representative Shuster commemorating his chairmanship of the Committee on Transportation and Infrastructure. The Investigative Subcommittee did not find substantial reason to believe that Representative Shuster had direct knowledge of improper activities. The Investigative Subcommittee questioned, however, the propriety of certain information received concerning the financial activities of the Bud Shuster Portrait Committee.

The Investigative Subcommittee subpoenaed documents from the Bud Shuster Portrait Committee and Continental Airlines. Counsel for the Investigative Subcommittee interviewed Edward Hamberger, Secretary/Treasurer of the Portrait Committee, employees of Continental Airlines and a registered lobbyist.<sup>140</sup> Counsel also interviewed by telephone Everett R. Kinstler, the artist who painted the portrait of Representative Shuster. Ms. Eppard and Mr. Hamberger were deposed by the Investigative Subcommittee.

The Bud Shuster Portrait Committee was incorporated on or about June 12, 1995. *Exhibit 109*. Mr. Hamberger's former law firm, Baker, Donelson, Bearman and Caldwell, submitted a written request to the Internal Revenue Service dated November 27, 1995, requesting a private letter ruling providing that contributions to the Bud Shuster Portrait Committee could be tax deductible under Section 170 of the Internal Revenue Code. *Exhibit 110*. In its letter to the IRS, the Portrait Committee asserted that:

[T]he [Portrait] Committee has been established for the sole purpose of locating a portrait painter and collecting contributions from individuals and corporate donors to defray the cost of such a painting, the cost of a suitable unveiling ceremony in the (Transportation) committee room and any administrative costs, including the expenses in connection with obtaining this ruling. The portrait will become the permanent property of the United States Government. Any funds collected in excess of the cost of the portrait, the unveiling ceremony and related expenses will be contributed to a charitable organization described in Section 170(c) of the Code.<sup>141</sup>

On March 27, 1996, the IRS issued a response stating that contributions to the Portrait Committee would be deemed tax deductible. The IRS letter indicated that "based on the information submitted [by the Portrait Committee in its letter of November 27]...we conclude that contributions to Portrait Committee will be charitable contributions within the meaning of section 170(c) of the Code." *Exhibit 112*.

Evidence obtained by the Investigative Subcommittee revealed that the Portrait Committee collected contributions of approximately \$85,650 and that the Portrait Committee's expenditures were approximately \$85,600. *Exhibit 113*. The principal expenditures included a fee for the artist, Mr. Kinstler, in the amount of \$45,000. In addition, the Portrait Committee hosted a private reception and dinner in Room 2167 of the Rayburn House Office Building on September 26, 1995, to introduce Mr. Kinstler to several of the contributors to the Portrait Committee.<sup>142</sup> Total costs for the September reception and dinner, including flowers, music and catering costs, were approximately \$5,700.<sup>143</sup>

The Portrait Committee expended additional funds in connection with the public portrait unveiling ceremony on Monday, January 22, 1996, in the hearing room of the Committee on Transportation and Infrastructure in the Rayburn House Office Building. As part of the public unveiling ceremony, the Portrait Committee hosted a lunch for approximately 200 guests. The cost of the lunch was approximately \$15,400, including catering costs, live music and flowers.<sup>144</sup> On the evening of Sunday, January 21, 1996, the Portrait Committee hosted a private dinner for 54 guests in the Rayburn House Office Building. The cost of the dinner was approximately \$9,000.<sup>145</sup>

Guests at the Sunday evening dinner included members of Representative Shuster's family, contributors to the Portrait Committee, the portrait artist and his wife, and congressional staff. In addition, the Portrait Committee hired Capital Limousine, Inc., at a cost of \$1,424, to drive the artist

and his wife from the Willard Hotel to the Rayburn House Office Building, and paid a private driver in New York \$100 to transport the artist and his wife to the airport.<sup>146</sup> The Investigative Subcommittee was unable to determine whether these limousines were used to transport other guests to this or other Portrait Committee events. The Portrait Committee also paid for the artist's lodging at the Willard Hotel and transportation from New York to Washington.

Mr. Hamberger was deposed by the Investigative Subcommittee on September 21, 1999. The Investigative Subcommittee reminded Mr. Hamberger during his appearance that the IRS had issued its private letter ruling based on the Portrait Committee's representations that the funds would be used for "a suitable public unveiling ceremony." The Investigative Subcommittee then asked Mr. Hamberger how the Portrait Committee justified the expenditure of two additional events: one in September 1995, and the other on the Sunday night preceding the Monday public unveiling ceremony.<sup>147</sup> With respect to the private dinner the Sunday evening before the public unveiling ceremony, Mr. Hamberger further testified that he "would call it one event. And that is to say that it was an invited event, but all surrounding the unveiling."<sup>148</sup> When asked whether the dinner on Sunday evening was open to the public, Mr. Hamberger replied:

A: I think that might be a term of art. If someone was walking down the street, they could not walk in, no.

Q: Someone who was not invited would not be able to attend the dinner the night before, is that correct?

A: Yes.

Q: It was invitation only, right?

A: Yes.

Q: How do you reconcile that with the IRS paperwork that talks about the unveiling ceremony being a public event?

A: I guess, as I say, I saw the whole thing as one big event.<sup>149</sup>

Tax deductible contributions were used to pay for all of these costs. The costs associated with these events exceeded the contributions the Portrait Committee had on deposit. The Portrait Committee found it necessary to continue its solicitation activities until it raised sufficient funds to defray its expenditures sometime into the spring of 1996.<sup>150</sup> In a letter dated April 11, 1995, the government affairs office at Continental Airlines agreed to contribute two first-class tickets round-trip tickets to Hawaii to the Portrait Committee. Mr. Hamberger testified that he sold the tickets to a registered lobbyist on behalf of the Portrait Committee shortly thereafter and in exchange obtained a \$4,000 contribution to the Portrait Committee.

After off-setting its final expenditures, the Portrait Committee had a positive balance remaining in the amount of \$2.65 which it contributed to the American Red Cross. *Exhibit 116*.

The Investigative Subcommittee questioned whether the manner in which the Portrait Committee expended its funds by Ms. Eppard, Mr. Hamberger and others associated with the Portrait Committee was consistent with the language contained in the private letter ruling issued by the Internal Revenue Service. The Investigative Subcommittee did not find substantial reason to believe, however, that Representative Shuster was personally aware of or involved in decisions regarding the manner in which these funds were used.

e. *Campaign Aide And Fundraiser For Robert Shuster*

The Investigative Subcommittee found that Ms. Eppard served as a fundraiser for Representative Shuster's son, Robert Shuster, during his 1996 congressional campaign. The Investigative Subcommittee did not find substantial reason to believe that Ms. Eppard's role in this campaign violated any standard of conduct applicable to Representative Shuster.

f. *Liaison For Groups Requesting Appearances By Representative Shuster*

The Investigative Subcommittee found no evidence that Ms. Eppard served as a liaison for any group requesting that Representative Shuster appear at Washington events. The Investigative Subcommittee did determine that Ms. Eppard had substantial involvement in Representative Shuster's official schedule as described in Section II.

g. *Provider Of Housing*

The Investigative Subcommittee investigated this allegation as a possible violation of House gift rules, see below.

h. *De Facto Staff Person*

The complaint alleged that Ms. Eppard served as a "[D]e facto official staff person" for Representative Shuster because she "provided staff-like services to Rep. Shuster, acting as his driver to and from his office on Capitol Hill."<sup>151</sup> The Investigative Subcommittee determined that Ms. Eppard frequently drove Representative Shuster to meetings in and around the Washington, D.C. area in connection with her position as assistant treasurer for the BSCC and as a fundraiser and consultant for the BSCC. The Investigative Subcommittee did not find substantial reason to believe that this activity violated any standard of conduct applicable to Representative Shuster.

However, as described in Section III above, the Investigative Subcommittee found Representative Shuster routinely accepted the scheduling and advisory services of Ms. Eppard on official matters during an eighteen-month period between November 1994 and May 1996 in violation of former House Rule 45.

i. *Representative Shuster's Recommendation Of Ms. Eppard As A Lobbyist*

The Investigative Subcommittee found no evidence that Representative Shuster directly or indirectly recommended Ms. Eppard's services to potential lobbying clients.

j. *Allegation That Ms. Eppard "may have violated the one-year post-employment prohibition against personal staff lobbying their former employer."*

The Investigative Subcommittee's findings regarding Ms. Eppard's representation of her clients during the one-year period after she left Representative Shuster's congressional office is discussed in Section II,

above.

### **B. House Gift Rules Regarding Lodging with Ms. Eppard**

The complaint alleged that Representative Shuster may have violated House gift rules by staying overnight at Ms. Eppard's Arlington, Virginia, townhouse without paying rent for the fair market value of the accommodations she provided.<sup>152</sup>

The Investigative Subcommittee subpoenaed documents from Representative Shuster, Ms. Eppard, Ann Eppard Associates, Ltd. ("AEA"), and financial institutions. After reviewing the documents, counsel for the Investigative Subcommittee interviewed employees of Representative Shuster's congressional office and employees of AEA. Ms. Eppard, AEA employees and employees of Representative Shuster's congressional office were deposed by the Investigative Subcommittee.

The Investigative Subcommittee determined that Representative Shuster and Ms. Eppard had known each other since the late 1960's when Representative Shuster initially hired Ms. Eppard at his private business several years before he became a Member of Congress. The Investigative Subcommittee also determined that over the course of time, the Shuster and Eppard families became close. Ms. Eppard testified before the Investigative Subcommittee that Representative Shuster was her "best friend."<sup>153</sup> In a letter provided to the Investigative Subcommittee, Representative Shuster stated that he and his family stayed at Ms. Eppard's Virginia residence on many occasions in the past.<sup>154</sup> The files of the Committee on Standards of Official Conduct contain no written waivers, written determinations of personal friendship or requests from Representative Shuster for either of these written determinations for calendar years 1995 or 1996.

While the gift rule that took effect on January 1, 1996 allows Members and staff to accept gifts provided on the basis of personal friendship, it requires them to be especially cautious in accepting any such gift from a lobbyist or anyone else with interests before the Congress. Quite clearly, the concern regarding gifts from any such individuals is that they may in fact be motivated by the official position of the Member or staff person, rather than by friendship. In this regard, a 1994 Senate committee report on a gift reform proposal observed,

[I]t seems appropriate to single out registered lobbyists and foreign agents for special treatment, because this category includes people who are, by definition, in the business of seeking to influence the outcome of public policy decisions. Because registered lobbyists and foreign agents are paid to influence the actions of public officials, including legislative branch officials, their gifts are uniquely susceptible to the appearance that they are intended to purchase access or influence.<sup>155</sup>

The gift rule includes two sets of provisions to help ensure that gifts proposed to be accepted on the basis of a personal friendship are indeed motivated by friendship, rather than because of the one's official position. First, the rule provides three specific criteria that Members and staff are to consider in determining whether a gift is provided on the basis of personal friendship, and hence may be accepted as a personal friendship gift:<sup>156</sup>

- o The history of the relationship of the Member or staff person with the individual offering the gift, including any previous exchange of gifts between them. Quite clearly, if there has not been reciprocal exchange of gifts, but instead all of the gifts have flowed to the Member or staff person, there is reason to believe that the gifts are motivated by business concerns, rather than personal friendship.
- o Whether the individual is paying for the gift personally and is not seeking a tax deduction or business reimbursement for the gift. Where the gift is paid for by a business, rather by the individual, or the individual will seek a tax deduction or business reimbursement for a gift, there is reason to believe that the gift has a business purpose.

- o Whether the individual is giving or has given the same or similar gifts to other Members or staff. In that circumstance, again, there is reason to believe that the gift is motivated by business concerns, rather than by personal friendship.

Second, the rule provides that a Member or staff person may not accept a gift exceeding \$250 in value on the basis of the personal friendship exception unless the Standards Committee issues a written determination that the exception applies.<sup>157</sup>

The Investigative Subcommittee did not find substantial reason to believe that Representative Shuster's acceptance of lodging from Ms. Eppard in 1996 was contrary to then Clause 1(c)(4) of then-House Rule 52, the personal friendship provision of the gift rule. This conclusion is substantially based on the evidence that the friendship between Representative Shuster, Ms. Eppard and their families spans several decades and that the friendship has included reciprocal gift exchange.

However, prior to accepting lodging from Ms. Eppard on any regular basis in 1996, Representative Shuster should have sought a personal friendship determination from the Committee on Standards under former Clause 1(e) of House Rule 52. In all likelihood, any single night's lodging would not have a value exceeding \$250, but acceptance of lodging on a regular basis would certainly exceed the \$250 threshold. In view of the Investigative Subcommittee's conclusion that the lodging was acceptable under the personal friendship provision, and in view of the fact that Representative Shuster has admitted to other violations discussed in this Report, the Investigative Subcommittee decided not to pursue a charge of a violation of the gift rule for Representative Shuster's failure to seek a personal friendship determination prior to his acceptance of the lodging.

For the reasons set forth above, compliance with the requirement that persons subject to the rule obtain a personal friendship determination from the Committee on Standards before accepting any gift exceeding \$250 in value is vitally important to ensuring that the personal friendship exception to the gift rule is not misused. The Committee on Standards has issued numerous advisory memoranda and other publications to House Members and employees that highlight this requirement. The Investigative Subcommittee intends to underscore the obligation of Members and staff to comply with this requirement in this Report.

With regard to the lodging that Representative Shuster accepted from Ms. Eppard in 1995 before the current gift rule took effect, he was required under the rule then in effect to seek a waiver from the Committee on Standards only if he accepted lodging of more than 30 days during a calendar year. The Investigative Subcommittee did not find substantial reason to believe that he accepted more than 30 days of lodging from Ms. Eppard in 1995.

### **C. Significant Legislative Benefits to Ms. Eppard's Clients**

The complaint also alleged that Ms. Eppard "produced significant legislative benefits for some of her clients seeking action on transportation-related issues before Chairman Shuster's committee."<sup>158</sup> The complaint alleged that these clients were Frito-Lay, Inc, Federal Express Corporation, the Outdoor Advertising Association of American and Amtrak. In addition to these clients, the Investigative Subcommittee subpoenaed documents from other clients of Ann Eppard Associates, Ltd. ("AEA") and other groups appearing before the Committee on Transportation and Infrastructure represented by Ms. Eppard or associated with Ms. Eppard or AEA.<sup>159</sup>

#### **1. Frito-Lay, Inc.**

The complaint cited the Journal of Commerce in stating that Frito-Lay:

[H]ired Ms. Eppard to assist in marshaling through Congress a law directing the secretary of transportation to set up a regulatory relief program for mid-weight delivery trucks....The proposal, introduced in the House Transportation and Infrastructure Committee by Rep. Bill Emerson, R-Mo., who also wanted to win relief for farm vehicles, became controversial when trucking safety proponents and DOT officials raised questions about its workability. The language was later narrowed to make it a pilot program that was ultimately enacted.<sup>160</sup>

The Complaint also cited an article in the Memphis Commercial Appeal regarding this legislation:

Frustrated after a five-year effort to soften safety rules for medium-sized trucks, such industry giants at Frito-Lay and Federal Express Corp. turned to friends in the new Republican Congress for help. And a quiet lobbying campaign aimed at the House Transportation Committee yielded in a few months what years of regulatory struggles had not: a waiver that could exempt service and delivery trucks from more than a dozen rules on the age and physical condition of drivers, on the number of hours they may drive and on paperwork for truck safety and maintenance.<sup>161</sup>

The Commercial Appeal article also stated:

The American Bakers Association approached Rep. Bill Zeff (R-N.H.), who introduced a version of the safety waivers as a House bill this year. When Transportation Committee chairman Bud Shuster (R-Pa.) opened the door to amendments to the highway bill, Zeff's provision was rolled into the measure along with several other rules waivers.<sup>162</sup>

In another attachment to the complaint a Journal of Commerce article stated that Representative Shuster "sought to protect" the measure from "Senate opponents in a House-Senate conference..."<sup>163</sup>

The Investigative Subcommittee subpoenaed documents from Frito-Lay, Representative Shuster, Ms. Eppard, AEA, the Committee on Transportation and Infrastructure, the American Bakers Association and other lobbyists associated with this legislation. After reviewing the documents, employees of Representative Shuster's congressional office, employees of the Committee on Transportation and Infrastructure, employees of Members of Congress, Ms. Eppard, AEA employees and other lobbyists were interviewed or deposed.

The Investigative Subcommittee determined that the National Highway System Designation Act of 1995 contained a pilot project providing flexibility to carriers using trucks between 10-26,000 pounds in complying with federal safety regulations if they devised a program of safety management controls that DOT determined would provide an equal or greater level of safety.<sup>164</sup> The Investigative Subcommittee did not find substantial reason to believe that Representative Shuster's actions regarding this legislation at the Committee level or in conference with the Senate were improperly influenced by Ms. Eppard's representation of Frito-Lay. In fact, the Investigative Subcommittee did not find substantial reason to believe that Ms. Eppard appeared before or communicated with Representative Shuster regarding this legislative provision.

## 2. Federal Express

According to a Journal of Commerce article cited in the complaint, Federal Express:

was able to obtain a subcommittee hearing on U.S.-Japan bilateral aviation relations just as U.S. negotiators were dealing with their counterparts. A dispute had developed between FedEx and Japanese officials over FedEx's plan to open cargo service between Tokyo and its new hub in the Philippines. The hearing in which lawmakers hinted at retaliatory action was little noticed in the United States, but was

broadcast by television news channels in Japan.<sup>165</sup>

The Investigative Subcommittee subpoenaed documents from Ms. Eppard, Representative Shuster, the Committee on Transportation and Infrastructure, Federal Express and United Airlines. Ms. Eppard, employees of AEA, three employees from the government affairs office of Federal Express, current and former employees of the Committee on Transportation and Infrastructure, employees of Members of Congress, and other lobbyists were interviewed or deposed.<sup>166</sup>

The Investigative Subcommittee found that the Subcommittee on Aviation for the House Committee on Transportation and Infrastructure held a hearing on U.S.-Japan bilateral aviation relations on July 20, 1995.<sup>167</sup> It further determined that the decision to recommend holding the hearing was made by the Aviation Subcommittee staff and approved by the Aviation Subcommittee Chairman, Representative John Duncan. Neither Representative Shuster, Ms. Eppard, nor Federal Express were consulted by the staff of the Aviation Subcommittee regarding the decision to hold the hearing. The Investigative Subcommittee also did not find substantial reason to believe that the comments made by Representative Shuster during the hearing which were quoted in the complaint were improper.<sup>168</sup>

### 3. Outdoor Advertising Association of America

According to a Journal of Commerce article attached to the complaint, the Outdoor Advertising Association of America ("OAAA") was:

successful in winning a change to federal policy governing the placement of billboards along routes designated partially as scenic byways. Rep. Shuster dug in his heels during negotiations with the Senate on highway legislation to protect the language, which through a series of regulatory layers will have the effect of allowing more billboards than before.<sup>169</sup>

The Investigative Subcommittee subpoenaed documents from Ms. Eppard, Representative Shuster, the Committee on Transportation and Infrastructure, the OAAA, and other lobbyists. Ms. Eppard, AEA employees, the president of the OAAA, current and former employees of the Committee on Transportation and Infrastructure and other lobbyists were interviewed or deposed.

The Investigative Subcommittee determined that the Congress did pass legislation during 1995 regarding "scenic byways" and that Representative Shuster actively supported this legislation.<sup>170</sup> The Investigative Subcommittee did not find substantial reason to believe that Ms. Eppard appeared before or communicated with Representative Shuster regarding this legislation. It also did not find substantial reason to believe that Representative Shuster's actions on behalf of this legislation or conduct during negotiations with the Senate regarding this legislation was influenced by Ms. Eppard's representation of the OAAA.<sup>171</sup>

### 4. Amtrak

The complaint again cited the Journal of Commerce:

Rep. Shuster worked hard to save Amtrak from a shut-off of federal funding sought by some within the House Republican Caucus. He delivered a reform-and-privatization bill to the House floor that gave Amtrak much of what it wanted to achieve a badly needed financial restructuring.<sup>172</sup>

The Investigative Subcommittee subpoenaed documents from Ms. Eppard, Representative Shuster, the Committee on Transportation and Infrastructure, Amtrak, Conrail and other lobbyists. The Investigative

Subcommittee also received documents from the U.S. Department of Transportation concerning this allegation. Employees of AEA, a lobbyist for Amtrak, employees of Conrail, employees of Members of Congress, current and former employees of the Committee on Transportation and Infrastructure and other lobbyists were interviewed.

Ms. Eppard, employees of AEA, lobbyists and employees of Amtrak and Conrail and employees of the Committee on Transportation and Infrastructure were deposed by the Investigative Subcommittee.<sup>173</sup>

The Investigative Subcommittee determined that on November 30, 1995, the House of Representatives passed H.R. 1788, the Amtrak Reform and Privatization Act of 1995, and that Representative Shuster actively supported this legislation.<sup>174</sup> The Investigative Subcommittee did not find substantial reason to believe that Ms. Eppard appeared before or communicated with Representative Shuster regarding this legislation. It also did not find substantial reason to believe that Representative Shuster's actions on behalf of this legislation was influenced by Ms. Eppard's representation of Amtrak.

#### **D. Illegal Gratuities**

The complaint further stated, "[G]iven the extensive interweaving of legislative, political, financial, and personal interests between Rep. Shuster and lobbyist Eppard, and their unusual mutual support efforts for one another...there is sufficient evidence to call into question whether Representative Bud Shuster and Ann Eppard have conformed their conduct to the letter of the law. In particular, we are concerned that section 201 of the U.S. Criminal Code has been triggered by their activities."<sup>175</sup> The complaint also requested that the Committee "conduct a preliminary inquiry into whether illegal gratuities were exchanged" between Ms. Eppard and Representative Shuster.<sup>176</sup>

The Investigative Subcommittee subpoenaed documents from Ms. Eppard, Representative Shuster, the Committee on Transportation and Infrastructure, numerous clients of AEA and other lobbyists. AEA employees, lobbyists, clients of AEA and employees of the Committee on Transportation and Infrastructure were interviewed.

Ms. Eppard, employees of AEA, lobbyists, clients of AEA, and employees of the Committee on Transportation and Infrastructure were deposed by the Investigative Subcommittee regarding this allegation.<sup>177</sup>

The Investigative Subcommittee did not find substantial reason to believe that Representative Shuster received an illegal gratuity from Ms. Eppard or that he solicited an illegal gratuity from Ms. Eppard.

#### **E. Allegations Concerning Representative Shuster and Maurice Lawruk**

The complaint alleged that Representative Shuster improperly intervened with the U.S. Department of Labor and the U.S. Department of Housing and Urban Development on behalf of Maurice A. Lawruk.<sup>178</sup> The complaint alleged that Mr. Lawruk was a business partner of Representative Shuster's sons, William Shuster and Robert Shuster.<sup>179</sup> The complaint cited a Roll Call article which stated:

Rep. Bud Shuster (R-Pa) helped a family friend win a \$3 million contract with the Department of Housing and Urban Development, then twice intervened with the executive branch in an effort to save the real estate developer \$350,000 in labor costs.

Even as Shuster's official actions aided Altoona businessman Maurice Lawruk...the multimillionaire in 1990 became a financial backer of a new car dealership. His partners in that enterprise: Shuster's sons.<sup>180</sup>

The Investigative Subcommittee subpoenaed documents from Ms. Eppard, Representative Shuster, Mr. Lawruk, the Shuster Chrysler dealership located in East Freedom, Pennsylvania, Robert Shuster and William Shuster. The Investigative Subcommittee also obtained documents from the U.S. Department of Housing and Urban Development and the U.S. Department of Labor. Counsel to the Investigative Subcommittee interviewed AEA employees and employees of Representative Shuster's congressional office.<sup>181</sup>

Ms. Eppard, employees of Representative Shuster's congressional office and Mr. Lawruk were deposed by the Investigative Subcommittee.

The Investigative Subcommittee determined that Mr. Lawruk met Representative Shuster in 1972 and has been a political supporter since that time. It also determined that the Lawruk and Shuster families have socialized together and that Mr. Lawruk considers Representative Shuster a personal friend. By 1990, Mr. Lawruk owned or was a partner in several car dealerships as well as many other businesses in the Altoona area.

The Investigative Subcommittee found that in 1989, a company partially owned by Maurice Lawruk entered into an approximately \$3 million contract with the Department of Housing and Urban Development to renovate the Penn Alto Hotel in Altoona, Pennsylvania. The Penn Alto is the largest hotel located in Altoona. Mr. Lawruk testified that he never met with or discussed this issue with Representative Shuster.<sup>182</sup>

The Investigative Subcommittee also determined that on August 31, 1990, Mr. Lawruk guaranteed a lease for Shuster Chrysler, then located in Roaring Spring, Pennsylvania, in the amount of \$260,000. Representative Shuster's sons, William Shuster and Robert Shuster, were officers of Shuster Chrysler. Mr. Lawruk, William Shuster and Robert Shuster were all on the Board of Directors of the Shuster Chrysler business. Mr. Lawruk had known William Shuster for many years and William Shuster had experience in the automobile business. Mr. Lawruk never met with or discussed this business relationship with Representative Shuster.

The Investigative Subcommittee also determined that in late 1990 and early 1991, Representative Shuster sent two letters to federal agencies in an effort to save approximately \$350,000 in labor costs for a company partially owned by Mr. Lawruk. These costs were related to renovations of the Penn Alto Hotel. **Exhibit 120.** Mr. Lawruk testified that he discussed these letters with Ms. Eppard but never met with or discussed these letters with Representative Shuster.

The Investigative Subcommittee did not find substantial reason to believe that Representative Shuster had any financial interest in Shuster Chrysler.

The House Ethics Manual states that a Member is not "precluded from providing any official assistance" to a supporter. It further provides that, "as long as there is no *quid pro quo*, a Member is free to assist all persons equally."<sup>183</sup> Members are again reminded that "the private financial interests and investment holdings of Members ... as well as their immediate families, may present conflicts of interest with official duties." The Committee reviews each situation on a case by case basis to determine whether an actual conflict of interest exists.<sup>185</sup> The Committee emphasizes in the House Ethics Manual that all Members should "avoid situations in which even an inference might be drawn suggesting improper action."<sup>186</sup>

The Investigative Subcommittee found that under the facts as determined by this investigation that it did not find substantial reason to believe that Representative Shuster intervened improperly with any government agency on Mr. Lawruk's behalf or that Representative Shuster was improperly influenced by the financial relationship between Mr. Lawruk and Representative Shuster's sons. The Investigative Subcommittee further determined that it did not find substantial reason to believe Representative Shuster acted improperly regarding any legislation concerning the Penn Alto Hotel.

## **F. Allegation of Linkage Between Official Actions by Representative Shuster and Fundraising Activities**

When the Investigative Subcommittee expanded its jurisdiction to look into practices by the Bud Shuster for Congress Committee, it inquired into allegations that there was an improper linkage between BSCC fundraisers and fact-finding trips to transportation projects by Representative Shuster. These allegations were originally brought to the attention of the Investigative Subcommittee by the Congressional Accountability Project in October 1997, when that group requested that the complaint be amended to include an investigation into Representative Shuster's campaign activities. During its inquiry, the Investigative Subcommittee focused on allegations contained in attachments to the CAP request for amending the complaint. These newspaper articles contended, in effect, that Representative Shuster made his participation in fact-finding tours contingent on a fundraiser being held in the same community.<sup>187</sup>

The Investigative Subcommittee subpoenaed documents from The Bud Shuster for Congress Committee, Ms. Eppard, AEA, Representative Shuster, Carolyn Barranca of the Frederick Area Committee on Transportation, the Harlingen Area Chamber of Commerce and an individual quoted in the attachments to the CAP amendment, Howard Pebley, Jr. Counsel for the Investigative Subcommittee interviewed AEA employees, employees of the Committee on Transportation and Infrastructure, employees of Representative Shuster's congressional office and local witnesses involving fundraisers and fact-finding tours by Representative Shuster. These interviews focused on BSCC fundraisers held between 1995 and 1996 in:

- o Chicago, Illinois (April 17, 1995)
- o Los Angeles, California (April 18, 1995)
- o Frederick, Maryland (October 25, 1996)
- o McAllen, Texas (August 8-9, 1996)
- o Portland, Oregon (September 15, 1996)
- o Salt Lake City, Utah and Provo, Utah (September 16, 1996)

Former Representative William Orton of Utah was also interviewed by Subcommittee counsel. The former Chairman of the Committee on Standards of Official Conduct, Representative James V. Hansen of Utah was also interviewed by counsel for the Investigative Subcommittee.

Ms. Eppard, Sandra Dickey, Julie Chlopecki, Thomas Hoyne, David Carmen, Nancy Fletcher, Nancy Butler, Edward Hamburger, Raymond Holdsworth and several employees from Representative Shuster's congressional office were deposed by the Investigative Subcommittee concerning fundraising practices by the BSCC.<sup>188</sup>

The Investigative Subcommittee did not find substantial reason to believe that Representative Shuster acted improperly. Specifically, the Investigative Subcommittee could not prove a direct linkage between fundraising activities by the BSCC and fact-finding tours or inspections of transportation projects by Representative Shuster. The Investigative Subcommittee emphasizes that no charges were brought against Representative Shuster with respect to these matters and that no inferences of guilt or liability should be drawn from this discussion.

However, the Investigative Subcommittee did determine that BSCC fundraisers are frequently held in proximity to fact-finding trips or inspections of transportation projects by Representative Shuster.<sup>189</sup> This troubled the Investigative Subcommittee. Members are directed to the guidance given in the House Ethics Manual:

The Senate Committee [regarding the Keating Five matter] concluded that 'established norms of Senate behavior do not permit linkage between . . . official actions and . . . fund raising activities.' House Members, too should be aware of the appearance of impropriety that could arise from championing the causes of contributors and take care not to show favoritism to them over other constituents.<sup>190</sup>

The House Ethics Manual further cautions Members to avoid even the appearance of linkage between campaign contributions and official activity, "Caution should always be exercised to avoid the appearance that solicitations of campaign contributions from constituents are connected in any way with a legislator's official advocacy."<sup>191</sup> The Committee has recently reminded Members to exercise caution regarding the appearance of any relationship between official actions and campaign activities.<sup>192</sup> The Manual also quotes former Senator Paul Douglas of Illinois:

It is probably not wrong for the campaign managers of a legislator to request contributions from those for whom the legislator has done appreciable favors, but this should never be presented as a payment for the services rendered. Moreover, the possibility of such a contribution should never be suggested by the legislator or his staff at the time the favor is done. *Furthermore, a decent interval of time should be allowed to lapse so that neither party will feel that there is a close connection between the two acts.*<sup>193</sup>

Members are cautioned that proof of a linkage between campaign contributions and official actions could result in disciplinary activity by the Committee.<sup>194</sup>

#### **G. DMJM Contract for Ms. Eppard**

While investigating the relationship between Representative Shuster, Ms. Eppard and her client Daniel, Mann, Johnson and Mendenhall ("DMJM"), the Investigative Subcommittee also examined whether Representative Shuster was involved in efforts to obtain a contract for Ms. Eppard with the government of Puerto Rico.

The Investigative Subcommittee was troubled by evidence it received suggesting that DMJM may have been involved in an effort to improperly coerce the Government of Puerto Rico to execute a contract for Ms. Eppard. Due to its lack of jurisdiction over DMJM or Ms. Eppard, however, the Investigative Subcommittee was unable to reach a conclusion regarding DMJM's actions. The documents that trouble the Investigative Subcommittee are included in this report as **Exhibit 123**.<sup>195</sup> The Investigative Subcommittee was particularly troubled by a confidential DMJM memorandum dated July 13, 1995, to a high official in the Puerto Rican government entitled, "Ann Eppard's Contract." **Exhibit 124**.<sup>196</sup> In this memorandum, Gilbert Butler, the head of the DMJM's Tren Urbano project in San Juan Puerto Rico, stated:

Ray Holdsworth attempted to telephone you this morning but was unable to reach you. He has asked me to write you that he is embarrassed to learn from Ann Eppard that she is still not under any form of contract through John Cahill. *Ann is also publicly embarrassed because she told Congressman Shuster and others on the hill that she was under contract which was an important aspect in obtaining the \$15 million appropriation.*

Ray also wanted me to let you know that the people in Miami have contacted her about representing them in Puerto Rico. Because Ann is so embarrassed by the lack of cooperation from John Cahill she will not now accept a contract through him. *Therefore, we need to know*

*from you by Friday noon in writing if the GMAEC is authorized to enter into a task order contract with Ann Eppard for \$75K annually. If not, we will tell her to take the Miami offer which is DMJM's next major client.*

We are concerned that John Cahill's nonresponsiveness with Ann Eppard, thus the Republican side, *could significantly jeopardize the \$15 million in committee as well as losing ISTEAs reauthorization next year.* Ray is bewildered by the manner in which this has been handled, particularly since you had promised both him and Nancy Butler it was taken care of. If you feel that you do not need DMJM's resources to help you in Washington we will accept that and use those resources elsewhere.

(Emphasis added)

During her appearance before the Investigative Subcommittee, Ms. Eppard strongly denied that she had made the statements attributed to her in this memorandum.<sup>197</sup>

The Investigative Subcommittee was also troubled by the testimony of Raymond Holdsworth, DMJM's CEO and President. While testifying before the Investigative Subcommittee on October 21, 1999, Mr. Holdsworth did not recall that Representative Shuster traveled to Puerto Rico in February 1995, to inspect a project managed by DMJM. Exhibits involving this trip are attached and are also discussed in Section II. When subpoenaed to testify before the Investigative Subcommittee a second time on December 4, 1999, Mr. Holdsworth indicated that he did recall that Representative Shuster participated in the February 1995, trip.

Based on the facts before it, the Investigative Subcommittee did not find substantial reason to believe that Representative Shuster improperly attempted to gain a contract for Ms. Eppard with the government of Puerto Rico.

#### APPENDIX

The Investigative Subcommittee noted that in many of the consulting agreements Ms. Eppard executed with her clients during the first year following her resignation from Representative Shuster's office, the parties inserted language acknowledging that her communications before Representative Shuster and his staff were limited and that the parties would observe those limitations. The Investigative Subcommittee questions the extent to which Ms. Eppard's activities and the activities of certain of her clients during the one-year period were consistent with the safeguard language contained in many of the consulting agreements. The Investigative Subcommittee concluded that in some instances the actions of Ms. Eppard and her clients, while consistent with the letter of the law, may have violated the spirit of the law. The Investigative Subcommittee found that in some instances, as he admitted in his answer, Representative Shuster's actions with respect to Ms. Eppard and her clients in this regard created the appearance that his official decisions might have been improperly affected.

In communications with the Committee on Standards, Representative Shuster asserted that all of his communications and contact with Ms. Eppard during the twelve-month period immediately following her resignation from his office were appropriate and consistent with the advice he had obtained from Mr. Hosken. Similarly, Ms. Eppard testified that she had asked Mr. Hosken for his views on the propriety of her proposed conduct during the twelve-month period following her resignation from Representative Shuster's staff. The Investigative Subcommittee notes that neither Representative Shuster nor Ms. Eppard ever submitted a request for a written advisory opinion from the Committee on Standards of Official Conduct regarding the propriety of their contemplated conduct.

The Investigative Subcommittee issued a subpoena for Representative Shuster requesting any records or notes in his possession to corroborate his suggestion that Mr. Hosken had specifically condoned the notion that it was appropriate for Representative Shuster and Ms. Eppard to have meetings or meals with her clients during the twelve-month period following her resignation provided no specific legislative issues

were discussed. Both Representative Shuster and Ms. Eppard asserted that Mr. Hosken advised them that all contact was permissible provided the parties were careful to avoid discussing any specific legislation in the presence of Ms. Eppard. In contrast, Mr. Hosken presented credible testimony to the Investigative Subcommittee which strongly suggested that neither Representative Shuster or Ms. Eppard ever presented that specific question for his consideration.

During his appearance before the Investigative Subcommittee, Mr. Hosken testified as follows:

Q: The bottom of the first page [of Hosken Exhibit 4]<sup>198</sup>, the letter dated March 7 from Mr. Shuster to Nancy Johnson [then the Chair of the Committee on Standards of Official Conduct], the very last two lines, Mr. Hosken reiterated that it was permissible as long as Ann did not lobby me on legislation for 1 year from the time she retired. Do you recall or have any notes that would help you recall any discussion, any questions from Mr. Shuster to you about how do you define "lobbying"?

A: I'm sorry, Congressman, I just don't have a specific recollection.

Q: Okay. Do you specifically or generally recollect how you might have defined "lobbying"? To be specific, would you have ever told Mr. Shuster or anyone else that if you had a client, and you set up appointments for that client to meet with your former employer for the purpose of discussing legislation, as long as you just set up the appointment, you attended the -- you were there when your client met the former employer in the office, but then you walked out of the meeting when they got to discuss the legislation, would you have said to anyone that would not be lobbying?

A: No, I would have called that lobbying. Setting up the appointment I would have considered lobbying. A personal introduction or whatever, I would consider that lobbying.

Q: So when we read this letter from Mr. Shuster to Ms. Johnson, and it says you -- suggesting that you told him it was permissible as long as she did not lobby me on legislation, your comment would be for the record that that should not be interpreted to say that anything short of her specifically asking him about a specific piece of legislation was okay to do; you did not give him that advice?

A: I did not, sir.

Q: You would not have given that to anyone?

A: No, sir, you're right. I would not have given that to anyone.

Q: Had they asked?

A: Right, sir.

Q: And you're clear in your recollection of that interpretation -- you didn't see the lobbying definition as being so narrow that setting up an appointment for a client and meeting the client at the Member's office would have been okay?

A: That just -- in a court of law, you might have survived beyond a reasonable doubt. But the advice, we always operated on a conservative approach to keep the Member from ever having to face the Public Integrity Section. And I think for the advice I gave, it was pretty consistent with what we all gave. And I can't say as we ever found a court case that said signing a letter is a contact, but why take the chance? All you have to do is have another person make the call. You tell them who to call.

Q: Just one last question on this point. Based on your note-keeping process, not keeping notes, if it's a standard question, clear-cut, black and white, right or wrong, but you made notes if it started getting into a complicated area or a gray area? You didn't -- if you didn't take any notes regarding what is the definition of lobbying, and if she said -- if someone sets up an appointment for me, is that lobbying or not, the fact that you didn't take any notes, would you suggest that's an indication that that was never asked of you?

A: No, I wouldn't say that it's an indication it was never asked. I would just say that the questions from the Member did not give me any concern, or if the questions gave me any concern, when I gave the answer, the Member seemed to accept it without any quibbling and that I thought the Member was going to follow the advice. Because if I thought the Member was arguing with me and disagreed with me, I would then make a note to the file to protect myself that I had advised against something.

Q: Finally, to finish on this, but you're very clear in your recollection of your understanding of any advice you would have given anyone regarding the definition of lobbying and that that didn't -- he didn't raise a question about that definition that so concerned you you took notes on?

A: That's correct, sir.

Q: Okay, thank you.

Q: What about the question of Mr. Shuster and Mrs. Eppard having a social dinner with Mrs. Eppard's clients, but them saying it was clear that no legislative items would be discussed, that it would just be a social dinner? Do you recall that question ever being asked to you?

A: I really do not.

Q: What would your answer have been if you had been asked that?

A: It's theoretically possible, but I would think legally improbable, especially if we look at the front page of The Washington Post test.

Q: What about Mrs. Eppard introducing a client of hers to Mr. Shuster and then leaving so that she wasn't involved in any discussion between them? Do you recall any questions like that being asked of you?

A: I do not.

Q: Okay. What would your answer have been to that question?

A: That's a contact and would be precluded by the law.

Q: Okay. Do you recall ever being asked if it would be permissible for Mr. Shuster and Mrs. Eppard to have dinner with any of her clients in the Rayburn House Office Building?

A: I have no recollection of anything like that.

Q: What would your answer have been to that?

A: No.

Q: Why?

A: Well, again, I think that would violate the statute. She's making a contact.

Q: Okay. Do you recall if Mr. Shuster or Mrs. Eppard ever discussed with you the propriety of Mrs. Eppard having input into Mr. Shuster's schedule after she left as his chief of staff?

A: That's possible, because that would very well relate to his questions about her working on the campaign, and could she say that I want to schedule a fund-raiser and does that conflict with your congressional schedule. So I can see where that's probably -- that probably was asked or discussed.

Q: Okay. And what would your advice have been?

A: Well, since she's appropriately on the campaign, or if she's appropriately -- regardless of if she's on the campaign, then I don't see why she couldn't discuss when they could schedule a campaign event.

Q: Okay. What about scheduling of official appointments for Mr. Shuster?

A: Well, that gets into the volunteer working in the office issue

we used to have, and I would say that's a no-no.

Q: Why would that be improper?

A: Well, she's not an official employee of his office, so she shouldn't get involved in the official operation of his office beyond that scheduling for campaign events.

Q: And what about Mrs. Eppard being involved in scheduling

official appointments for her clients; do you recall ever being asked that?

A: I do not recall being asked that.

Q: And what would your answer have been?

A: No.

Q: Why?

A: Well, then I think that it would violate the statute. She would be making a contact with intent to influence even if she wasn't going to do it personally, but the people for whom she was making the introduction were going to try and influence the Congressman.<sup>199</sup>

Representative Shuster's failure to produce any notes or other evidence to support his claims, combined with the credible testimony of Mr. Hosken that he was unaware of the full extent and nature of Representative Shuster's contact with Ms. Eppard during this period, raised doubts about the accuracy of Representative Shuster's claims that he was acting in accordance with advice he received from Committee counsel.

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<sup>1</sup> House Ethics Manual, 102d Congress, 2d Session (April 1992) at 12, citing 114 CONG. REC. 8778 (Apr. 3, 1968).

<sup>2</sup> 18 U.S.C. § 207(e) - (f), (j). The 1989 Act also broadened the post-employment restrictions of 18 U.S.C. § 207 that are

applicable to Executive Branch officials. For example, prior to the 1989 amendment, those restrictions applied only to certain matters set out in the statute, such as a judicial or other proceeding, application, or a request for a ruling or determination, but the 1989 Act made the restrictions applicable to virtually any matter. Accordingly, regulations and advice of the Office of Government Ethics construing the provisions of § 207 that were superceded in the 1989 Act are not useful in interpreting the Legislative Branch restrictions.

<sup>3</sup> 18 U.S.C. § 207(e)(6)(A).

<sup>4</sup> The statute provides that "[a]ny person who is an employee of a Senator or an employee of a Member of the House of Representatives and who, within 1 year after the termination of that employment, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in subparagraph (B), on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 216 of this title." 18 U.S.C. § 207(e)(2)(A).

<sup>5</sup> Emphasis added. Office of Government Ethics, "Memorandum Issued October 26, 1990, from Stephen D. Potts, Director, to Designated Agency Ethics Officials, General Counsels, and Inspectors General Regarding Revised Post-Employment Restrictions of 18 U.S.C. § 207, Ethics In Government Reporter (1993).

<sup>6</sup> *Id.*

<sup>7</sup> Emphasis added. House Ethics Manual at 125-126.

<sup>8</sup> Exhibit 7 at 2.

<sup>9</sup> The Public Works Committee was renamed the Committee on Transportation and Infrastructure at the beginning of the 104th Congress.

<sup>10</sup> This exhibit is partially redacted.

<sup>11</sup> This exhibit is partially redacted.

<sup>12</sup> Ms. Eppard stated in her appearance before the Investigative Subcommittee that she possessed a key to Room 2254 from January 1995 until an unspecified date in 1999. Other witnesses appearing before the Investigative Subcommittee testified that Representative Shuster acquired access to and control of Room 2254 of the Rayburn House Office Building for use as his private office when he became Chairman of the Committee on Transportation and Infrastructure in January, 1995.

<sup>13</sup> Mr. Hamberger recalled during his testimony before the Investigative Subcommittee that Baker Donelson and Ann Eppard Associates jointly represented the Government of Puerto Rico, the Pennsylvania Turnpike Authority, Day and Zimmerman, the Ocean Common Carrier Conference, and the Metropolitan Washington Airport Authority.

<sup>14</sup> This exhibit is partially redacted.

<sup>15</sup> This letter was written on letterhead of National Railroad Passenger Corporation, located at 60 Massachusetts Avenue, N.E., in Washington, DC, the same address reflected by AMTRAK on its corporate documents. Corporate materials reflect that AMTRAK is a registered service mark of the National Railroad Passenger Corporation.

<sup>16</sup> See Exhibit 24 at 6.

<sup>17</sup> Representative Shuster testified against the closure of the Letterkenny Army Depot at a BRAC hearing during this trip to Boston. See Section V, below.

<sup>18</sup> *Exhibit 28* to this Report.

<sup>19</sup> *Exhibit 29* to this Report.

<sup>20</sup> Dep. of Ann Sanders Dickey, October 19, 1999, at 39-44.

<sup>21</sup> *Exhibit 30* at 1.

<sup>22</sup> *Id.* These records indicate that for each of the five meals listed in this section, the Alexandria Pastry Shop billed Ann Eppard Associates for the food and catering. AEA was the point of contact for ordering the food, beverages and service for these meals. In addition, AEA advised the Alexandria Pastry Shop of the time, location and number of people who would be attending the meals.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> The Investigative Subcommittee notes that Representative Shuster has stated publicly in the past that the Committee on Standards of Official Conduct "cleared" at least certain aspects of his professional relationship with Ms. Eppard after her retirement from employment with the House. (See, e.g., *Exhibit 31, Bud Shuster Press Release*, February 8, 1996: "After retirement, and after clearing it with the House Ethics Committee, [Ann Eppard] continued to serve as the Congressman's chief political advisor."... "Everyone has meticulously complied with the ethics rules.") The Investigative Subcommittee notes that, prior to her retirement from his congressional office, both Representative Shuster and Ms. Eppard did orally seek the advice of staff counsel to the Committee on Standards of Official Conduct regarding certain aspects of their professional relationship. Staff counsel did orally approve certain aspects of the relationship, e.g., Ms. Eppard's continuance as Representative Shuster's political and campaign advisor and their continued contact with each other as social friends in true social situations. The Investigative Subcommittee has determined, however, that regarding contacts on official matters, at a minimum both Representative Shuster and Ms. Eppard were advised that Ms. Eppard could not lobby the Congressman or employees in his office during the one-year "cooling off" period after she left his employment. The Investigative Subcommittee found with certainty that neither Representative Shuster nor Ms. Eppard ever posed to the Committee any questions regarding the propriety of the type of contacts set forth above and encompassed by the Statement of Alleged Violation. Further, the Investigative Subcommittee found that the advice rendered by Committee staff counsel in response to those questions actually posed by either Ms. Eppard or Representative Shuster could not appropriately or in good faith be taken to approve or condone any contacts of the type described above. See Appendix to Report.

<sup>26</sup> Mr. McGrath has never met Representative Shuster. His contact with Representative Shuster was limited solely to the correspondence required to effect the lease.

<sup>27</sup> Exhibits 34 and 35 are partially redacted.

<sup>28</sup> Representative Shuster executed a contract for the two-night period from December 29 through December 31. Mr. Butler executed a separate contract for the remaining 6-night period on behalf of DMJM and OAAA.

<sup>29</sup> See Exhibit 36 at 6.

<sup>30</sup> The nightly breakdown of the accommodations was \$357/night for the four-bedroom villa and \$178/night for the two-bedroom villa. On September 25, 1995, Representative Shuster sent Kenneth McGrath, the owner of the property, a check for \$500 as a deposit on the property. On November 6, 1995, Representative Shuster sent Mr. McGrath a check for \$771 along with a letter explaining that the enclosed check, "when coupled with my previous deposit of \$500, pays for my condo rental for the nights of Jan 1st and 2d, 1996. I am sorry for any confusion concerning the amount, which I previously overpaid, and the nights for which I am paying, but I hope this clears it up." See *Exhibit 37*. The reference to the "confusion" related to a check Representative Shuster had submitted to Mr. McGrath dated November 1, 1995, in the amount of \$1842, which he erroneously believed included lodging for two nights for himself and his family in the amount of \$1642 plus \$200 for a security deposit. Mr. McGrath never deposited this check as it was replaced by the November 6 check in the amount of \$771. On February 1, 1996, Mr. McGrath sent Representative Shuster a refund of his security deposit in the amount of \$200. Representative Shuster specified in his letter to Mr. McGrath, however, that he was submitting payment for lodgings for two (2) nights and he did in fact tender payment for two (2) nights lodgings. This is inconsistent with the statement on his financial disclosure forms for calendar year 1995, however, in which Representative Shuster specified that he had personally paid for lodgings for three (3) nights and that R. J. Reynolds had paid a portion of his expenses, which it had not.

<sup>31</sup> Dep. of Gilbert L. Butler, October 26, 1999, at 77-78.

<sup>32</sup> Dep. of Gilbert L. Butler at 62-63.

<sup>33</sup> This exhibit is partially redacted.

<sup>34</sup> During her appearance before the Investigative Subcommittee, Ms. Butler testified that she could not recall the specifics of her conversation with Ms. Fletcher at the shower, nor could she specifically recall whether Ms. Fletcher was aware of the fact that the Shusters planned to travel to Puerto Rico during December prior to the time she discussed it with Ms. Fletcher, as revealed in the following testimony: "If she didn't know, and I said that we were doing it, maybe it planted an idea in her head and she went

back and took action upon it. But I'm sure I did not make an overt solicitation of her to sponsor at that time." Dep. of Nancy C. Butler, November 5, 1999, at 86.

<sup>35</sup> Dep. of Nancy J. Fletcher, October 4, 1999, at 57.

<sup>36</sup> Representative Shuster communicated to the Investigative Subcommittee that in addition to the brief meetings on December 28 and 29, he had a separate meeting with two agents from the federal Drug Enforcement Agency during the trip. The Investigative Subcommittee found this assertion irrelevant to its conclusion that the primary purpose of Representative Shuster's trip to Puerto Rico was recreational and not directly related to any event or meeting with or organized by DMJM or OAAA.

<sup>37</sup> Inquiry into Various Complaints Filed Against Representative Newt Gingrich, H. Rep. No. 104-401, 104th Cong., 1st Sess. 4 (1995).

<sup>38</sup> House Ethics Manual at 197.

<sup>39</sup> Ms. Eppard was not certain whether she had written the notation that read "Ask Ed" on Exhibit 41 at 26. [EGS-M 001302] Dep. of Ann M. Eppard, March 7, 2000, at 52, 77.

<sup>40</sup> Exhibit 41 at 3, 14, 18, 19, 35 and 42.

<sup>41</sup> Dep. of employee of U.S. House of Representatives, October 1, 1999, at 28.

<sup>42</sup> Dep. of Ann M. Eppard, March 7, 2000, at 39.

<sup>43</sup> *Common Cause v. Bolger*, 574 F. Supp. 672, 683 (D.D.C. 1982), *aff'd*, 461 U.S. 911 (1983).

<sup>44</sup> *United States v. Clark*, Criminal No. 78-207 (W.D. Pa. 1978); *see Senate Comm. on Rules and Administration, Senate Election Law Guidebook 2000*, S. Doc. No. 106-14, 106th Cong., 2d Sess. 250.

<sup>45</sup> *United States v. Bresnahan*, Criminal No. 93-0409 (D.D.C. 1993); *see Id.* at 250.

<sup>46</sup> Many employees explained to the Investigative Subcommittee that by describing themselves as campaign "volunteers," they did not mean to imply that they were never compensated by the BSCC. Rather, the use of the term "volunteer" indicated that no one compelled them to perform such services for the BSCC.

<sup>47</sup> Dep. of employee of U. S. House of Representatives, October 1, 1999, at 85-86.

<sup>48</sup> *Id.* at 98-100

<sup>49</sup> *Id.* at 84.

<sup>50</sup> *Id.* at 85.

<sup>51</sup> *Id.*

<sup>52</sup> *Id.* at 89.

<sup>53</sup> *Id.* at 110.

<sup>54</sup> Evidence obtained from other sources, including Ms. Eppard, suggested that Ms. Eppard did participate in several of the official tours of transportation projects with Representative Shuster even though she was accompanying him out of town solely in her capacity as political adviser. When asked why she accompanied Representative Shuster on official tours after she left his congressional staff, Ms. Eppard replied that "...I have been up [on helicopters] on occasions where people said can we show you this, or on the way to the airport, can we show you this? It would be easier, to save time, what we will do, if you will go see this by helicopter, we will just drop you off at the airport. The only question I have is it has to be paid for by a government entity. You can't have a corporation flying him around." Dep. of Ann M. Eppard, March 7, 2000, at 152-153.

<sup>55</sup> Dep. of employee of U. S. House of Representatives, October 28, 1999, at 53.

<sup>56</sup> *Id.* at 53-54.

<sup>57</sup> Attachment A contains a list of the disbursements made by the BSCC during this period regarding "political meetings." While most disbursements are described primarily as "political meetings," several also include "lodging," "meals," "campaign expense," "campaign meeting," "fundraising planning meeting," or related terms.

<sup>58</sup> House Comm. on Standards of Official Conduct, *Investigation of Financial Transactions of Representative Jim Weaver with His Campaign Organization*, H. Rep. No. 99-933, 99th Cong., 2d Sess. 13 (1988); see also *In the Matter of Representative Richard H. Stallings*, H. Rep. No. 100-382, 100th Cong., 1st Sess. 3-4 (1987); *In the Matter of Representative Charles G. Rose III*, H. Rep. No. 100-526, 100th Cong., 2d Sess. 23 (1988); *Report on H.R. 3660*, 101st Cong., 1st Sess. (Comm. Print, Comm. on Rules 1989), reprinted in 134 Cong. Rec. 30740, 30751 (1989).

<sup>59</sup> *House Ethics Manual* at 271.

<sup>60</sup> *The Almanac of American Politics* (1998) at 1224.

<sup>61</sup> This exhibit is partially redacted.

<sup>62</sup> Dep. of Ann M. Eppard, March 8, 2000, at 117-119.

<sup>63</sup> Dep. of Thomas J. Hoyne, September 29, 1999, at 103-105.

<sup>64</sup> Dep. of Ann M. Eppard, March 7, 2000, at 112, 116-117.

<sup>65</sup> Dep. of Ann M. Eppard, March 8, 2000, at 204-205.

<sup>66</sup> Representative Shuster has advised the Investigative Subcommittee that in his view, the Investigative Subcommittee lacks jurisdiction to question the manner in which he expended campaign funds. In the view of Representative Shuster, all of his campaign contributions and expenditures were properly reported to the Federal Election Commission and that agency alone has the authority to question the propriety of any campaign expenditures. The Investigative Subcommittee flatly rejects that argument, however, based on (1) the requirements of the House Code of Official Conduct providing that campaign funds should be spent for bona fide campaign or political purposes and the prohibition against using those funds for personal purposes, and (2) its independent authority to investigate potential violations of any law, rule or regulation, including former House Rule 43, Clause 6 (current House Rule 24, Clause 6).

<sup>67</sup> Dep. of Ann M. Eppard, March 8, 2000, at 121-122, 129, 127-128.

<sup>68</sup> See Exhibit 31.

<sup>69</sup> The complaint was filed on the last day permissible under former Committee Rule 14(i)[current rule 16(h)] which provided, "[T]he Committee shall not accept, and shall return to the complainant, any complaint submitted within 60 days prior to an election in which the subject of the complaint is a candidate."

<sup>70</sup> Exhibit 49 at 1.

<sup>71</sup> *Id.* at 2.

<sup>72</sup> *Id.* at 2-4.

<sup>73</sup> *Id.* at 4.

<sup>74</sup> *Id.* at 1.

<sup>75</sup> *Id.* at 5-11.

<sup>76</sup> *Id.* at 11-13.

<sup>77</sup> *Id.* (attachments)

<sup>78</sup> *Id.* at 13. In 1999, the Congressional Accountability Project and Common Cause renewed calls for an outside counsel. Committee Rule 6(h) provides, "Subject to the approval of the Committee on House Administration, the Committee may retain counsel not employed by the House of Representatives whenever the Committee determines, by an affirmative vote of a majority of the members of the committee, that the retention of outside counsel is necessary and appropriate." Pursuant to the Report of the Ethics Reform Task Force on H. Res. 168 (see Committee Print dated June 17, 1997 at 8-9) the Committee rules were amended in 1997 to provide for a nonpartisan staff. Committee Rule 6(a) provides that, "The staff is to be assembled and retained as a professional, nonpartisan staff" and Rule 6(d) provides, "No member of the staff shall engage in any partisan activity directly affecting any congressional or presidential election." The Shuster Investigative Subcommittee is the second investigative subcommittee to proceed under the rules requiring a professional and nonpartisan staff (the first was the investigation of Representative Jay Kim, concluded in 1998). The Investigative Subcommittee believes this report will demonstrate that the Committee counsel aided the Investigative Subcommittee in conducting a thorough and fair investigation in this matter.

<sup>79</sup> *Id.* Former House Rule 10, clause 4(c)(2)(B), stated that the Committee may undertake an investigation if "(ii) upon receipt of a complaint, in writing and under oath, directly from an individual not a Member of the House if the Committee finds that such complaint has been submitted by such individual to not less than three Members of the House who have refused, in writing, to transmit such complaint to the committee." Former Committee Rule 14(e) stated, "Legible copies of each refusal letter must accompany the complaint... A legible copy of the exact complaint submitted to and considered by the Member must be attached to that Member's refusal letter."

<sup>80</sup> Exhibit 52.

<sup>81</sup> Committee Rule 16 for the 105th Congress provided: (a) A complaint submitted to the Committee shall be in writing, dated, and properly verified (a document will be considered properly verified where a notary executes it with the language, "Signed and sworn to (or affirmed) before me on (date) by (the name of the person)" setting forth in simple, concise, and direct statements- ... (4) the facts alleged to give rise to the violation. The complaint shall not contain innuendo, speculative assertions, or conclusory statements.

<sup>82</sup> Committee Rule 17(c)(2) for the 105th Congress provided: (b) Whenever the Chairman and Ranking Minority Member jointly determine that information submitted to the Committee meets the requirements of the Committee's rules for what constitutes a complaints, they shall have 45 calendar days or 5 legislative days... unless the Committee by an affirmative vote of a majority of its members votes otherwise, to- (2) establish an investigative subcommittee.

<sup>83</sup> See Exhibit 54. Section 1 of the Resolution provided for the use of non-Committee members on Investigative Subcommittees and amended House Rule 10, Clause 6(a) to add subsection (a)(3) to conform with the resolution.

<sup>84</sup> Not all subpoenas authorized by the Investigative Subcommittee were served.

<sup>85</sup> On February 2, 1999, Representative Shuster's attorneys sent a letter to the Investigative Subcommittee alleging that "virtually every client" of Ms. Eppard's had been subpoenaed and that the Committee counsel were engaged in a "war of economic attrition" against Ms. Eppard. This letter is attached as Exhibit 61. The Investigative Subcommittee notes that during the course of the investigation, thirteen clients of AEA were subpoenaed. Records in the office of the House Clerk indicate AEA has approximately twenty-nine clients. Each subpoena was based on an allegation made in the original complaint or based upon information uncovered during the investigation and was duly authorized under Committee Rules by the Investigative Subcommittee. In addition, pursuant to Committee rules, each subpoena was signed by the Chairman and Ranking Minority Member of the full Committee. The letter also stated that "Committee counsel have, on numerous occasions, told recipients [of subpoenas] they would be in contempt of Congress if they did not reply quickly enough for them." The Investigative Subcommittee emphasizes that any discussions by their counsel regarding enforcement of subpoenas with any party were expressly authorized by the Investigative Subcommittee. In fact, any mention by counsel concerning enforcement options available to the Committee came in response to questions from the organizations or individuals served with subpoenas regarding the enforcement process.

<sup>86</sup> Exhibit 63.

<sup>87</sup> Representative Shuster and his congressional office were subpoenaed to produce numerous records relevant to the Investigative Subcommittee's investigation.

<sup>88</sup> On March 11, 1998, the Office of the U.S. Attorney for the District of Massachusetts faxed a subpoena to the House General Counsel's office directing the Committee to produce documents to that office by March 17, 1998. On March 17, 1998 the Committee provided a copy of the subpoena to Representative Shuster. On March 20, 1998, the U.S. Attorney's office withdrew the subpoena. *Exhibit 64.*

<sup>89</sup> Rule 6(c)(2) provides a general rule against disclosure of "matters occurring before the grand jury" unless a specific exception to the rule applies.

<sup>90</sup> Committee Rule 11 provides, "Committee members and staff shall not disclose any evidence relating to an investigation to any person or organization outside the Committee unless authorized by the Committee."

<sup>91</sup> Indictment of Ann M. Eppard. The indictment charged Eppard and co-defendant Vernon Clark with conspiring to violate 18 U.S.C. § 201 (c)(1)(A) regarding official actions Eppard took while serving as Representative Shuster's Chief of Staff. Eppard was also charged with six counts of mail and wire fraud in violation of 18 U.S.C. §§ 1341 and 1343. Clark was also charged with aiding and abetting Eppard's mail and wire fraud charges.

<sup>92</sup> In particular, the Office of the U.S. Attorney was concerned about the possibility of inconsistent statements created by witnesses interviewed by the Investigative Subcommittee and who testified before the grand jury regarding the identical topic. In addition, the Office of the U.S. Attorney was concerned about the impact on its case if the Investigative Subcommittee obtained an immunity order for any witness material to its investigation.

<sup>93</sup> The Investigative Subcommittee determined that absent compelling circumstances vital to its investigation that outweighed any other factors, it would not request testimonial immunity orders for Ms. Eppard or Representative Shuster. It also decided that the Investigative Subcommittee would notify the Department of Justice before it interviewed a witnesses to ascertain if the Department had any strong objections to the interview or deposition of that witness. The notification would be done with the express understanding that the Investigative Subcommittee would not be bound by the response from the Department of Justice but that the Investigative Subcommittee would be able to gauge whether interviewing that witness would have a material impact on the Department's case. During the course of its investigation, the Investigative Subcommittee gave the Department of Justice the names of approximately 100 potential witnesses. Of those witnesses, the Department had strong objections to five witnesses. Of those, the Investigative Subcommittee interviewed three. On October 5, 1998, the full Committee approved this policy as an exception to Committee Rule 11. Committee Rule 11 prohibits disclosure of evidence absent authorization by the Committee.

<sup>94</sup> The Investigative Subcommittee was concerned that if it deferred its investigation for the duration of the grand jury investigation, it might be several years before the Subcommittee would be able to commence an investigation that did not conflict with the grand jury investigation.

<sup>95</sup> Committee Rule 16(f).

<sup>96</sup> The Committee has previously elected to defer investigations upon receipt of a formal request from the United States Attorney to do so. See, e.g., *Summary of Activities, A Report of the Committee on Standards of Official Conduct, One Hundred Third Congress*, H.R. Rept. No. 103-873, at 8. However, the Committee has not commonly deferred an investigation where the respondent was the subject of a Grand Jury investigation but had not been indicted. See, e.g., *In the Matter of Representative Barbara-Rose Collins*, H.R. Rept. No. 104-876, at 2-3.

<sup>97</sup> The Investigative Subcommittee noted that the March 12, 1998 letter from Representative Shuster was addressed to the full Committee and labeled "Motion to Dismiss", while the accompanying letter from Representative Shuster's attorneys was addressed to the Investigative Subcommittee.

<sup>98</sup> The letter was from the full Committee because other issues addressed in the response dealt with full Committee issues (i.e., enforcement of subpoenas). One footnote in the letter has been redacted.

<sup>99</sup> See, e.g., *In the Matter of Representative Barbara-Rose Collins*, at 2-3.

<sup>100</sup> Representative Shuster produced 203 pages of documents primarily regarding a townhouse in Arlington, Virginia. See *Exhibit 76* for correspondence related to this production.

<sup>101</sup> See *Exhibit 71*. In this letter, Representative Shuster's attorneys argued that production to the Investigative Subcommittee of documents "does raise significant constitutional concerns for Mr. Shuster and, perhaps current or former members of his staff. The Supreme Court has recognized that the act of producing materials in response to a subpoena may be testimonial in nature..."

<sup>102</sup> See *Exhibit 72*.

<sup>103</sup> Representative Shuster was also instructed to provide a privilege log for any documents which he asserted "may tend to defame, degrade, or incriminate" pursuant to House Rule XI(k)(5). Representative Shuster was informed that the constitutional issues he raised had been discussed with the Office of the General Counsel for the House of Representatives and that "the legal views expressed by the Committee are consistent with the guidance we have received from that office."

<sup>104</sup> These documents included appointment requests, photocopies of Representative Shuster's official calendars for 1995 and 1996, bank records and telephone records. Representative Shuster maintained to the Investigative Subcommittee that he had not retained any copies of his personal tax returns for the relevant periods. However, Representative Shuster agreed to request that the Internal Revenue Service provide copies of the tax returns. Copies of the relevant tax returns were eventually provided to the Investigative Subcommittee by the Internal Revenue Service.

<sup>105</sup> This exhibit includes the correspondence regarding these subpoenas. The Investigative Subcommittee notes that it did not find merit with the position taken by Representative Shuster and his staff regarding these subpoenas. The Committee and the Investigative Subcommittee maintain the position that congressional staff may possess documents relevant to an inquiry that are "personal" and not "official." Because the relevant items were eventually produced by Representative Shuster the Investigative Subcommittee chose not to pursue this matter further. Any party subpoenaed by this Committee has an independent obligation to comply with the subpoena and failure to do so may result in disciplinary action by the full Committee. See Letter from Representative Joel Hefley and Representative Zoe Lofgren dated March 20, 1998 at 2, which is included in the correspondence provided in *Exhibit 72*.

<sup>106</sup> Ms. Eppard produced twenty-two additional documents on April 22, 1998. The Investigative Subcommittee notes it never "modified" the January 27, 1998 subpoenas to Ms. Eppard and AEA as indicated in the April 22, 1998 letter from her attorney. The Investigative Subcommittee merely agreed that production of certain documents would satisfy the subpoena but always reserved the right to require complete compliance with the subpoena.

<sup>107</sup> Section 6005 of Title 18 sets forth the procedures for obtaining a court order immunizing a witness in a congressional proceeding.

<sup>108</sup> These subpoenas also required production of relevant unredacted tax returns, credit card receipts, and bank account information.

<sup>109</sup> On May 20, 1998, the Investigative Subcommittee also authorized additional subpoenas for: (1) documents from Ms. Eppard and AEA related to her involvement with the closing of the Letterkenny Army Depot in Chambersburg, Pennsylvania; (2) AEA bank records from the Burke and Herbert Bank and Trust Company; and (3) American Express accounts maintained by Ms. Eppard and AEA. American Express, Burke and Herbert and Ms. Eppard/AEA complied with these subpoenas. While agreeing to narrow compliance with the subpoenas, the Investigative Subcommittee always reserved the right to enforce complete compliance at any time. *Exhibit 86*.

<sup>110</sup> The Investigative Subcommittee agreed that it would only release relevant portions of the calendars in any public report issued in conjunction with this inquiry. On July 9, 1998 and July 10, 1998 Ms. Eppard and AEA also produced more legible copies of calendars previously produced to the Investigative Subcommittee. See *Exhibit 88*.

<sup>111</sup> In his letter, Representative Shuster stated, "I respectfully object to the expansion of the probe into areas which were not contained in the original complaint itself, but instead in a proposed amendment. 'A complaint may not be amended without leave of the Committee.' Committee on Standards of Official Conduct Rule 16(g). As the Committee has not, to my knowledge, granted leave regarding the amendment, its subject matter is not properly before the Committee."

<sup>112</sup> The original documents and photocopies produced by the BSCC consisted primarily of records relating to FEC reports filed by the BSCC between March 1996 and April 1998. Subsequently the Investigative Subcommittee determined that the original campaign documents from January 1993-February 1996 were in the custody of the Office of the United States Attorney for the District of Massachusetts. Copies of these documents were provided to the Investigative Subcommittee by the Department of Justice in early 2000. See below.

<sup>113</sup> Ms. Eppard and AEA produced documents relevant to these subpoenas.

<sup>114</sup> See Exhibit 61. This letter claimed that Representatives Livingston and Cardin, the co-chairmen of the bipartisan Ethics Task Force which reviewed Committee rules during the first session of the 105th Congress (See above), both stated on the record that the Shuster case would be decided under any new rules adopted by the Task Force. The Investigative Subcommittee notes that the statements quoted in Representative Shuster's letter refer to the conduct of the investigation under the new rules, and not its filing. As discussed above, when the complaint was carried over to the 105th Congress, the Committee determined that the investigation would proceed under the rules adopted by the Ethics Task Force and that the filing had been proper under the rules in place when the complaint was filed.

<sup>115</sup> The Investigative Subcommittee notes that Representative Hansen, the then Committee Chairman, sought out Representative Shuster once in the fall of 1998 to inform Representative Shuster that the inquiry had been expanded. See above. All other contacts between Representative Shuster and Representative Hansen were initiated by Representative Shuster. The record indicates that both the Committee and Representative Hansen sent letters to Representative Shuster informing him that any requests for meetings or information regarding the investigation should have been properly directed to the Investigative Subcommittee. The Investigative Subcommittee also determined that Representative Shuster received all notices required by the rules of the Committee, including a copy of the complaint filed by the CAP and a letter informing him on the expansion. After reviewing Representative Shuster's request, the Investigative Subcommittee determined that a meeting would not be appropriate at that point in the investigation. Subsequently, Representative Shuster was invited to appear before the Investigative Subcommittee.

<sup>116</sup> Mr. Hoyne has been BSCC treasurer from November 1994 to date. Lawruk was a material witness concerning the allegation in the CAP complaint regarding an alleged improper intervention with government agencies on his behalf by Representative Shuster.

<sup>117</sup> In 1982, the Committee conducted a Preliminary Inquiry into allegations against Representative Frederick W. Richmond. See H.R. Rep. 97-1004, 97th Cong. 1st Sess., 6 (1982). During the course of that investigation the Committee staff requested authorization to seek immunity orders for at least nine House employees. In 1982 and 1983, the Committee conducted an investigation into narcotics use and sexual misconduct by Members and House employees. During the course of this investigation, the Committee obtained immunity orders for numerous witnesses. At least two of the orders appeared to be for witnesses who were employed by the House at the time the immunity order was granted, an employee of the Majority Cloakroom and a tour guide.

<sup>118</sup> Ms. Eppard pleaded guilty to a violation of 18 U.S.C. § 203 (a)(1) and (a)(2) - Compensation Other than as Authorized by Law.

<sup>119</sup> The U.S. Attorney told counsel that for the foreseeable future the investigation "wasn't going anywhere."

<sup>120</sup> Based on Ms. Eppard's corruption conviction and Mr. Stern's public statement that the investigation was ended, the Congressional Accountability Project and Common Cause both requested the Investigative Subcommittee obtain relevant documents from the U. S. Attorney's Office.

<sup>121</sup> The letter requested production of information obtained by the Department of Justice during its investigation of Ann M. Eppard, Vernon A. Clark and Representative Shuster, provided that such transfer of information would not violate the integrity or secrecy of the grand jury process, compromise any ongoing Department of Justice investigation or otherwise violate any applicable law, rule or regulation.

<sup>122</sup> Prior to the Investigative Subcommittee's vote, the Office of Legislative Affairs for the Department of Justice informed counsel for the Investigative Subcommittee by telephone that the Department would not oppose the immunity request for Ms. Eppard.

<sup>123</sup> The vote of the Investigative Subcommittee for the immunity recommendation was 3-0, one member being absent.

<sup>124</sup> A portion of the exhibit is redacted.

<sup>125</sup> A portion of the exhibit is redacted.

<sup>126</sup> The Investigative Subcommittee determined that the immunity order covered a very small portion of the calendars because Representative Shuster had already provided most of the calendars in a redacted form.

<sup>127</sup> The vote of the Committee was 8-0, two members being absent. A copy of the application from the General Counsel's office for the immunity order for Representative Shuster and its supporting Memorandum is included in Exhibit 106.

<sup>128</sup> When counsel for the Subcommittee reminded Representative Shuster's attorney that Representative Shuster's attorneys had previously led the Investigative Subcommittee to believe that Representative Shuster had submitted a request to the U.S. District Court in Massachusetts to redact several categories of materials, including those related to national security, the attorney for Representative Shuster responded that he believed the court had told Representative Shuster that he would have to submit an affidavit to the court if he intended to redact any material on the grounds it related to national security. The attorney went on to say it was his understanding that no such affidavit was ever submitted so he assumed that Representative Shuster had relied on attorney-client privilege or the personal nature of the material to redact the information from the documents produced to the U.S. District Court in Boston. The Investigative Subcommittee remains very troubled as to why Representative Shuster and his attorneys continued to assert up through February 24, 2000, in papers to the Investigative Subcommittee that materials had been redacted for national security reasons when in fact this does not appear to have been the case. This remains important to the Investigative Subcommittee because Representative Shuster's assertion of national security and the attorney-client privilege were material reasons in the Subcommittee's recommendation that Representative Shuster receive act of production immunity. A review of the unredacted calendars demonstrated that the personal matters asserted by Representative Shuster included his cholesterol count, items dealing with breeding horses, his son's 1996 congressional race and brief notations relating to his wife's health. While these items are of a personal nature, none of these issues demonstrated a compelling need for redaction requiring a grant of immunity. In summary, the Investigative Subcommittee took the unprecedented step of recommending that the full Committee grant limited immunity for a sitting Member of Congress based on assertions by the Member's counsel that proved to be less than compelling when the documents were finally produced. <sup>129</sup> In numerous instances throughout his written response to the Report of the Investigative Subcommittee, Representative Shuster makes references to statements that witnesses allegedly made during their appearances before the Investigative Subcommittee. (See, e.g., Respondent's Views at 45-53.) The Investigative Subcommittee stresses that consistent with its agreement to settle this matter before proceeding to Rule 27(c), Representative Shuster and his attorneys have not reviewed any witness transcripts, nor were they present during the appearances of other witnesses.

<sup>130</sup> Under Committee Rule 25(d), a Letter of Reprimand is an appropriate sanction if the Committee determines it "constitutes sufficient action." Other sanctions require

approval by the House. Under Committee Rule 25(g), reprimand is appropriate for "serious violations," censure for more serious violations, and expulsion for the most serious violations.

<sup>131</sup> The full Committee voted unanimously at the commencement of its meeting to permit Representatives McCrery and Edwards to attend.

<sup>132</sup> See Exhibit 49 at 2-5.

<sup>133</sup> *Id.* at 4.

<sup>134</sup> *Id.* at 1. 18 U.S.C. § 207(e)(2)(A) restricts certain communications or appearances of senior congressional employees during a one-year period after they leave employment in the personal office of a Senator or a Member of the House of Representatives. See Section II.

<sup>135</sup> These witnesses included Patrick Joyce, a former employee of Representative Shuster, Jeff Davis, a consultant for AEA, Eric Orsini, Deputy Assistant Secretary of the Army (Logistics), Office of the Assistant Secretary of the Army (Installations, Logistics and Environment), and David Sciamanna of the Greater Chambersburg (PA) Chamber of Commerce. Mr. Sciamanna was also on the steering committee of the "Letterkenny Coalition."

<sup>136</sup> The standard of proof for the Investigative Subcommittee is found in Committee Rule 20(e) which provides that it "may adopt a Statement of Alleged Violation if it determines that there is substantial reason to believe" that a relevant rule, law or regulation has been violated by an individual under its jurisdiction.

<sup>137</sup> Federal Election Commission reports indicate the BSCC paid AEA approximately \$3,000 each month for consulting between December 1994 and at least February 2000.

<sup>138</sup> The complaint also alleged that Ms. Eppard "interviewed candidates for county commissioner posts and advised Mr. Shuster on which candidates warrant his political backing." The Investigative Subcommittee found no evidence that Ms. Eppard engaged in this conduct.

<sup>139</sup> The Letterkenny Army Depot is located in Chambersburg, Pennsylvania.

<sup>140</sup> Ms. Eppard served as President of the Portrait Committee.

<sup>141</sup> The Investigative Subcommittee obtained a letter signed by Mr. Hamberger on July 28, 1995, in which Mr. Hamberger represented to a potential donor to the Portrait Committee that the Committee had applied to the IRS for tax-exempt status. Although this letter was written four months before the Committee submitted an application to the IRS, Mr. Hamberger testified that it is his understanding that the Committee has applied for tax-exempt status at the time he drafted this letter to the donor. Exhibit 111.

<sup>142</sup> The main hearing room of the Committee on Transportation and Infrastructure is in Room 2167 of the Rayburn House Office Building.

<sup>143</sup> Exhibit 113 at 3.

<sup>144</sup> Exhibit 114 at 3 and 8; Exhibit 113 at 3.

<sup>145</sup> Exhibit 114 at 1; Exhibit 113 at 3.

<sup>146</sup> Exhibit 114 at 10 and 11; Exhibit 113 at 3.

<sup>147</sup> Although in his capacity as Treasurer of the Portrait Committee he signed all checks for the Committee's expenditures, Mr. Hamberger testified that he has no recollection that the September Portrait Committee event took place.

<sup>148</sup> Dep. of Edward R. Hamberger, September 21, 1999, at 52.

<sup>149</sup> *Id.* at 70-71.

<sup>150</sup> Exhibit 115. (Letter from Ed Hamberger to Barry Palmer dated April 9, 1996, nearly three months after the event took place. This letter erroneously suggests that the Committee on Transportation and Infrastructure rather than the Bud Shuster Portrait Committee was planning these activities.)

<sup>151</sup> See Exhibit 49 at 4, and Attachment 2, "Lobbyist's '95 Revenues Could Top \$1 Million", Journal of Commerce, February 8, 1996.

<sup>152</sup> Exhibit 49 at 5-7. Under the Gift rule in effect in 1995 (House Rule 43, Clause 4), Members and employees were prohibited from accepting personal hospitality more than 30 days in a calendar year without prior written waiver from the Committee on Standards. Under the rule that went into effect on January 1, 1996 (House Rule 51, later renumbered as House Rule 52), Members were prohibited from accepting personal hospitality from a lobbyist unless the lobbyist were determined to be a bona fide personal friend. Gifts based on personal friendship were also prohibited if the Member had reason to believe that, "under the circumstances, the gift was provided because of your official position and not because of the personal friendship." Under the new rule, Members were not allowed to accept gifts worth more than \$250 under the personal friendship exception "unless the Committee...issues a written determination that" the personal friendship exemption to the gift rule applies. The Gift Rules for 1995 and 1996 are attached as Exhibit 117.

<sup>153</sup> Dep. of Ann M. Eppard, March 7, 2000, at 25.

<sup>154</sup> See Exhibit 58, Attachment A.

<sup>155</sup> S. Rep. No. 103-255, 103d Cong., 2d Sess. 3-4 (1994).

<sup>156</sup> Exhibit 117, Clause 1(c)(4)(B) of House Rule 52, 104th Cong., 2d Sess.

<sup>157</sup> *Id.* at Clause 1(e).

<sup>158</sup> Exhibit 49 at 7.

<sup>159</sup> Documents were subpoenaed and received from the American Association of Railroads, the American Road and Transportation Builders Association (ARTBA), the Pennsylvania Turnpike Commission, the Los Angeles County Metropolitan Transportation Association, Delta Development Corporation, Union Pacific, and the Natural Disaster Coalition.

<sup>160</sup> Exhibit 49 at 7.

<sup>161</sup> *Id.* at 7-8.

<sup>162</sup> *Id.* Attachment 9, "Firms win concession on safety for trucks," at 2.

<sup>163</sup> *Id.* Attachment 9, "Frito Hires Eppard to Lobby on Truck Rules, November 9, 1995.

<sup>164</sup> Public Law 104-59, passed Nov. 28, 1995. Section 344.

<sup>165</sup> Exhibit 49 at 8.

<sup>166</sup> A former employee for the Senate Commerce Committee was also interviewed.

<sup>167</sup> See "Aviation Relations Between the United States and Japan", Committee Print 104-27, Committee on Transportation and Infrastructure, July 20, 1995. The Senate Commerce, Science and Transportation Committee's Subcommittee on Aviation held a hearing on the same subject in July 11, 1995. See S. HRG. 104-406, "Global Aviation Challenges: Tokyo, Heathrow, and Beyond." Frederick Smith, CEO of Federal Express, testified at both hearings.

<sup>168</sup> Exhibit 49 at 8. ("At the hearing... Chairman Shuster stated 'it is time for us to get tough' in the trade dispute with Japanese air cargo carriers.")

<sup>169</sup> *Id.* at 9.

<sup>170</sup> Public Law 95-59, National Highway System Designation Act of 1995, Section 314.

<sup>171</sup> The Investigative Subcommittee noted that Representative Shuster has been a consistent supporter of similar legislation in the past.

<sup>172</sup> Exhibit 49 at 9-10.

<sup>173</sup> The Investigative Subcommittee deposed Timothy Gillespie, a former lobbyist for Amtrak. The Investigative Subcommittee also deposed David LeVan, former president of Conrail and William Newman, a former lobbyist for Conrail. Among the employees of the Committee on Transportation and Infrastructure deposed by the Investigative Subcommittee were the Chief of Staff, the General Counsel and the minority staff director. The majority counsel for the Railroad Subcommittee was interviewed by counsel for the Investigative Subcommittee.

<sup>174</sup> Exhibit 118. See also H. Rept. 104-299.

<sup>175</sup> Exhibit 49 at 10. 18 U.S.C. § 201(c)(1)(B) provides: "Whoever-(1)(B) being a public official...directly or indirectly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally for or because of any official act performed or to be performed by such official or person...."shall be fined or imprisoned.

<sup>176</sup> Exhibit 49 at 10-11.

<sup>177</sup> Among the employees of the Committee on Transportation and Infrastructure deposed were the Chief of Staff, the General Counsel and the minority staff director.

<sup>178</sup> Exhibit 49 at 11-13.

<sup>179</sup> *Id.* at 12.

<sup>180</sup> *Id.* at 12

<sup>181</sup> On December 5, 1998, Congressional Quarterly published an article concerning the relationship between Representative Shuster and Mr. Lawruk. Counsel for the Investigative Subcommittee interviewed several witnesses quoted in the article. Exhibit 119. The article also alleged on page 3235 that "[I]n 1995, the dealership moved to a choice location in East Freedom, Pa., alongside Interstate 99, a major lifeline in the district built with federal funds secured by the congressman and known as the Bud Shuster Highway. About the same time, the Pennsylvania Department of Transportation undertook a road-widening project at a cost of more than \$8 million that improved access to the dealership and to other businesses nearby. Shuster sponsored the project in the 1991 surface transportation reauthorization bill (P. L. 102-240). The land for the new location was purchased by S&L Partnership, a collaboration of the Shuster and Lawruk families, for \$145,000, county land records show." The Investigative Subcommittee did not find substantial reason to believe that Representative Shuster acted improperly in connection with this matter.

<sup>182</sup> The Investigative Subcommittee determined that renovation of the Penn Alto Hotel was supported by a broad range of bipartisan groups in the Altoona area.

<sup>183</sup> House Ethics Manual at 250. See also Exhibit 121, Memorandum from the Committee, "Prohibition Against Linking Official Actions to Partisan or Political Considerations, or Personal Gain," dated May 11, 1999.

<sup>184</sup> House Ethics Manual at 155.

<sup>185</sup> *Id.* at 159.

<sup>186</sup> *Id.*

<sup>187</sup> See Exhibit 56, Amendment to CAP Complaint, including attachments regarding fundraisers.

<sup>188</sup> Ms. Chlopecki is employed by AEA. Ms. Dickey is a government affairs representative for Federal Express. David Carmen is a lobbyist and also a client of AEA. Nancy Butler is a vice president for DMJM, a client of AEA. Mr. Hoyne is BSCC treasurer. Ms. Fletcher is president of OAAA, an AEA client. Mr. Hamberger is president of the Association of American Railroads. Mr. Holdsworth is the CEO and President of DMJM, a client of AEA.

<sup>189</sup> On each occasion examined by the Investigative Subcommittee, Representative Shuster attended a fundraiser for his campaign. Immediately before or after these fundraisers Representative Shuster also visited local transportation projects.

<sup>190</sup> House Ethics Manual at 251 (citations removed).

<sup>191</sup> *Id.* at 257.

<sup>192</sup> Exhibit 122, Memorandum from the Committee, "Rules and Standards of Conduct Relating to Campaign Activity," dated March 2, 2000; See also Exhibit 121, Memorandum from the Committee, "Prohibition Against Linking Official Actions to Partisan or Political Considerations, or Personal Gain," dated May 11, 1999. In a press statement regarding a private letter sent to Representative Tom DeLay on November 7, 1997, the Committee reminded Members to avoid even the appearance of linkage between official activities and campaign contributions.

<sup>193</sup> House Ethics Manual at 257, quoting Senator Paul H. Douglas, *Ethics in Government* 87 (1952)(emphasis added).

<sup>194</sup> Exhibit 121.

<sup>195</sup> A portion of the exhibit is redacted. The Investigative Subcommittee was also particularly troubled by the fact that DMJM possessed material documents regarding the February, 1995, visit of Representative Shuster to Puerto Rico and did not produce these documents to the Investigative Subcommittee in its initial production of documents. In fact, DMJM did not produce these documents until after the initial appearance of Mr. Holdsworth and another DMJM employee before the Investigative Subcommittee (both were recalled to testify a second time before the Investigative Subcommittee.)

<sup>196</sup> A portion of the exhibit is redacted.

<sup>197</sup> The Investigative Subcommittee notes that Ms. Eppard filed a Lobbying Registration Form with the Office of the Clerk of the House of Representatives on July 20, 1995, indicating that she represented "Puerto Rico Department of Highways and Transportation c/o McDermott/O'Neill." See Exhibit 3. The Investigative Subcommittee further notes that the first filing by Ms. Eppard in the Office of the Clerk regarding her direct representation of DMJM was dated February 13, 1996. *Id.*

<sup>198</sup> See Exhibit 47.

<sup>199</sup> Dep. of Edward W. Hosken, Jr., October 13, 1999, at 31-37.